

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. \_\_\_\_\_

GOLIGHT, INC.,  
a Nebraska corporation,

Plaintiff,

v.

KH INDUSTRIES, INC.,  
a New York corporation,

UNITY MANUFACTURING CO.,  
an Illinois corporation,

and

EMERGENCY TECHNOLOGY, INC.  
d/b/a SOUNDOFF SIGNAL,  
a Michigan corporation,

Defendants.

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**COMPLAINT WITH JURY DEMAND**

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Plaintiff Golight, Inc. ("Golight"), by and through its undersigned attorneys, for its Complaint against KH Industries, Inc. ("KH"), Unity Manufacturing Co. ("Unity") and Emergency Technology, Inc. d/b/a Soundoff Signal ("Soundoff"), (collectively "Defendants") states as follows:

**I. PARTIES**

1. Upon information and belief, KH is a New York corporation, having a principal place of business at 160 Elmview Avenue, Hamburg, NY 14075.

2. Upon information and belief, Unity is an Illinois corporation, having a principal place of business at 1260 N. Clybourn Avenue, Chicago, IL 60610.

3. Upon information and belief, Emergency Technology, Inc., d/b/a Soundoff Signal is a Michigan corporation, having its principal place of business at 3900 Central Parkway, Hudsonville, MI 49426.

4. Upon information and belief, Defendants offer for sale and sell LED lighting products throughout the United States and in Colorado, including the specific products identified herein.

## **II. JURISDICTION AND VENUE**

5. This is a civil action to combat Defendants' infringement of Golight's exclusive rights arising under the patent laws of the United States, 35 U.S.C. § 101, *et seq.*, unfair competition and unjust enrichment in violation of the common law of the State of Colorado, violation of the Colorado Consumer Protection Act, §§ 6-1-101 through 115; and for an accounting and entry of a constructive trust.

6. This Court has original subject matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), and supplemental jurisdiction under 28 U.S.C. §§ 1367(a).

7. This Court has personal jurisdiction over Defendants, as each Defendant conducts substantial business in this district, through both retail distribution locations and ecommerce sites, such as [www.khindustries.com](http://www.khindustries.com), [www.unityusa.com](http://www.unityusa.com) and [www.soundoffsignal.com](http://www.soundoffsignal.com). Upon information and belief, authorized distributors of the Accused Products are located throughout the Denver metropolitan area, including in Aurora, Commerce City, Denver, Federal Heights, Lakewood, Northglenn and Thornton. In addition to Defendants' retail activity in this district,

and based upon their extensive commercial activities and presence, it is foreseeable that Defendants regularly conduct business within this judicial district and have availed themselves of the laws of Colorado.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

### **III. GENERAL ALLEGATIONS**

#### **Golight's History of Innovation**

9. For more than 20 years, Golight has been engaged in the business of making and selling portable and permanently mounted lights. Golight has expended substantial resources in designing, developing, manufacturing, marketing, advertising, distributing and selling Golight's products, including its LED style lighting products, throughout the United States. Through its long history of innovation and development of novel lighting products, Golight has become recognized as a technology leader in the lighting industry.

10. Golight has developed a portfolio of patents to protect its investment in designing and enhancing its best-in-class lighting products. Golight has been awarded over 40 U.S. and foreign patents on its innovative technologies, which includes U.S. Patent No. 9,255,687 ("the '687 Patent"). As a result of its commitment to innovation and continuous product development, Golight's products have enjoyed considerable commercial success since the company's inception in 1994.

#### **Golight's '687 Patent**

11. One of Golight's most innovative technologies is embodied in the '687 Patent, which was duly and legally issued by the United States Patent & Trademark Office on February

9, 2016. A true and correct copy of the '687 Patent is attached hereto as Exhibit 1. By assignment, Golight owns all right, title and interest in and to the '687 Patent.

12. The invention of the '687 Patent is directed towards a lighting system which can accommodate a variable number of light-emitting diodes (LEDs). The '687 Patent claims priority to earlier-filed Golight patent applications dating back to July 11, 2011. The '687 Patent is and remains valid and enforceable.

13. Golight has not licensed any of its rights to the '687 Patent, and thus has maintained its exclusive monopoly to make, have made, import, offer for sale, sell and use the inventions claimed therein.

14. Claim 4 is one of the independent claims of the '687 Patent, and recites: a plurality of semicircular monolithic protrusions having a roughly circular border mounted in a single lens piece; each monolithic protrusion comprising a plano-convex lens; said plurality of semicircular protrusions extending along at least two axes in a substantially flat plane of the lens piece; wherein said plurality of semicircular monolithic protrusions is adapted to merge individual beams of light into a single beam of light.

15. Certain of Golight's products are covered by the claims of the '687 Patent. Golight has marked those products, pursuant to 35 U.S.C. § 287(a), at all applicable times.

#### **IV. DEFENDANTS' UNLAWFUL CONDUCT**

16. In approximately 2016, Golight became aware that Defendants were distributing, offering for sale and/or selling products that infringe one or more claims of the '687 Patent. True and accurate copies of sales and marketing literature demonstrating Defendants' infringing LED products are attached hereto as Exhibits 2-4 (collectively, the "Accused Products").

17. KH maintains a website [www.khindustries.com](http://www.khindustries.com), which and advertises and solicits orders for its LED NightRay line of lighting products. True and accurate copies of KH's sales and marketing literature for the "LED NightRay" products are attached hereto as Exhibit 2. Upon information and belief, KH has promoted, marketed, advertised, distributed, offered for sale and/or sold the products depicted in Exhibit 2, including through its [khindustries.com](http://khindustries.com) website, to customers located in Colorado.

18. Unity maintains a website [www.unityusa.com](http://www.unityusa.com), which advertises and solicits sales for its LED 6" Spotlight and replacement LED lamp products. True and accurate copies of Unity's sales and marketing literature for the LED 6" Spotlight and replacement LED lamp products are attached hereto as Exhibit 3. Upon information and belief, Unity has promoted, marketed, advertised, distributed, offered for sale and/or sold the products depicted in Exhibit 3 to customers located in Colorado.

19. Defendant Soundoff maintains a website [www.soundoffsignal.com](http://www.soundoffsignal.com), which and advertises and solicits orders for its PAR46 LED Spot Light products. True and accurate copies of Soundoff's sales and marketing literature for the PAR46 LED Spot Light products are attached hereto as Exhibit 4. Upon information and belief, Defendant Soundoff has promoted, marketed, advertised, distributed, offered for sale and/or sold the products depicted in Exhibit 4, including through its website, to customers located in Colorado.

20. Upon information and belief, Defendants were aware of the existence of the '687 Patent, prior to the filing of this Complaint, yet continued to offer for sale and sell the Accused Products throughout the United States.

21. Golight has never licensed, authorized or otherwise consented to Defendants' use of its exclusive rights in and to the '687 Patent or the sale of the Accused Products identified herein.

22. Accordingly, Defendants have been and are offering to sell, selling and distributing the Accused Products in willful violation of Golight's exclusive rights in the '687 Patent.

23. Specifically, the Accused Products literally infringe at least Claim 4 of the '687 Patent. More specifically, the Accused Products include a plurality of semicircular monolithic protrusions, having a roughly circular border, and mounted in a single lens piece. *See* Exhibit 5, p. 1. Each protrusion of the Accused Products comprises a plano-convex lens. *See* Exhibit 5, p. 2. The protrusions extend along at least two axes, and are arranged in a substantially flat plane of the lens piece. *See* Exhibit 5, pp. 3-4. When in use, the protrusions merge seven individual LED beams of light into a single beam of light. *See* Exhibit 5, p. 5.

24. Additional independent and dependent claims of the '687 Patent are also literally infringed by the Accused Products. To the extent one or more elements of the '687 Patent are not directly literally infringed, those elements are infringed under the doctrine of equivalents.

25. Defendants are offering for sale and selling the Accused Products through the same channels and to the same customers as Golight sells its products, including those covered by the '687 Patent. Upon information and belief, Defendants' conduct has resulted in confusion amongst consumers and has damaged the good will associated with Golight's products. If Defendants are permitted to continue their infringing and unlawful acts complained of herein,

those actions are highly likely to cause irreparable injury to Golight and to the consuming public, for which there is no adequate remedy at law.

**V. FIRST CLAIM FOR RELIEF  
(Federal Patent Infringement)**

26. Golight realleges and incorporates by reference the allegations contained in paragraphs 1-25 above.

27. Defendants' activities in making, using, selling and/or offering to sell in the United States and/or importing into the United States the Accused Products constitutes direct infringement of the '687 Patent, in violation of 35 U.S.C. § 271(a).

28. Defendants' actions of making, having made, importing, using or selling products which infringe the '687 Patent have been, and are, willful, deliberate and/or in conscious disregard of Golight's rights, making this an exceptional case within the meaning of 35 U.S.C. § 285 and entitling Golight to an award of its attorneys' fees and treble damages.

29. Defendants' infringement of the '687 Patent has caused damage to Golight in an amount to be ascertained at trial.

30. Defendants' infringement of the '687 Patent has caused and will continue to cause irreparable injury to Golight, to which there exists no adequate remedy at law. Defendants' infringement of the '687 Patent will continue unless enjoined by this Court.

**VI. SECOND CLAIM FOR RELIEF  
(Colorado Common Law Unfair Competition)**

31. Golight realleges and incorporates by reference the allegations contained in paragraphs 1-30 above.

32. Defendants have misappropriated valuable property rights of Golight, and are trading on the goodwill symbolized by the distinctive and highly recognizable characteristics of Golight's products. Defendants' unlawful conduct is likely to confuse and deceive members of the purchasing public. By this and other conduct, Defendants have engaged in unfair competition.

33. By its conduct, Defendants have caused and, unless restrained and enjoined by this Court, will continue to cause damage to Golight.

34. Unless restrained and enjoined, Defendants' acts of unfair competition will cause Golight irreparable injury. Golight has no adequate remedy at law for the injuries that have been, and will continue to be, sustained as a result of Defendants' conduct.

**VII. THIRD CLAIM FOR RELIEF**  
**(Colorado Common Law Unjust Enrichment)**

35. Golight realleges and incorporates by reference the allegations contained in paragraphs 1-34 above.

36. As a direct and proximate result of Defendants' unlawful conduct, Defendants have appreciated a benefit under circumstances that would be inequitable for Defendants to retain without payment to Golight.

37. Unless restrained and enjoined, Defendants' unjust enrichment will cause Golight irreparable injury. Golight has no adequate remedy at law for the injuries that have been, and will continue to be, sustained as a result of Defendants' conduct.



**VIII. FOURTH CLAIM FOR RELIEF**  
**(Deceptive Trade Practices Under COLO. REV. STAT. § 6-1-105)**

38. Golight realleges and incorporates by reference the allegations contained in paragraphs 1-37 above.

39. By the actions described above, Defendants have engaged in a deceptive trade practice, as defined by the Colo. Rev. Stat. §§ 6-1-101 et seq.

40. Upon information and belief, the acts of Defendants have caused and will continue to cause confusion, mistake, or deception among consumers or potential consumers as to the source or origin of Defendants' goods.

41. Upon information and belief, Defendants' wrongful actions were committed with intent to deceive the public and with willful and wanton disregard of the laws of the State of Colorado and Golight's rights.

42. As a result of Defendants' unlawful actions, Golight has suffered commercial harm.

43. Golight has been and will continue to be irreparably harmed by Defendants' unlawful actions, and Golight has no adequate remedy at law.

**IX. FIFTH CLAIM FOR RELIEF**  
**(Accounting)**

44. Golight realleges and incorporates by reference the allegations contained in paragraphs 1-43 above.

45. Defendants have manufactured, imported, sold, used, and/or distributed products which directly infringe and/or misappropriate the exclusive rights of Golight. Defendants have therefore deprived Golight of sales and/or royalties, which it otherwise would have made, and

which have resulted in the unjust enrichment of Defendants to the detriment of Golight. Defendants' actions have resulted in improper profits, revenues, and other financial gains to Defendants for which Golight is entitled to reimbursement.

46. Golight does not know the precise number of Accused Products sold or the amount of revenue and profits realized by Defendants, which information is uniquely within the knowledge of Defendants. Golight is therefore entitled to an accounting, at Defendants' expense, to determine the amount of profits, revenue and other gains Defendants have unjustly obtained.

**X. SIXTH CLAIM FOR RELIEF  
(Constructive Trust)**

47. Golight realleges and incorporates by reference the allegations contained in paragraphs 1-46 above.

48. All revenue and profits that Defendants have wrongfully and unjustly obtained as a result of its acts complained of herein are subject to an equitable lien and constructive trust for the benefit of Golight. Golight requests that this Court impose a constructive trust on the proceeds of the sales of any infringing products, wrongfully in the hands of Defendants, and any portion thereof which are in the hands of others, whether or not Defendants, in order to preserve said proceeds for Golight.

**XI. PRAYER FOR RELIEF**

WHEREFORE, Golight requests that judgment be entered in its favor and against Defendants as follows:

1. Declaring that Defendants have infringed U.S. Patent No. 9,255,687;
2. Declaring that Defendants' infringement was knowing, intentional, and willful;
3. Issuing temporary, preliminary, and permanent injunctions enjoining Defendants, its officers, agents, subsidiaries, and employees, and those in privity with or that act in concert with any of the foregoing, from:

- A. further infringing U.S. Patent No. 9,255,687, pursuant to 35 U.S.C. § 283, by importing, making, having made, offering for sale or selling the Accused Products;
- B. engaging in any other act or thing likely to confuse, mislead or deceive others into believing that Defendants, or its products, are connected with or sponsored, licensed or approved by Golight; and
- C. engaging in any other activity constituting unfair competition with Golight, or constituting an infringement or misappropriation of Golight's exclusive rights.

4. Ordering that all labels, signs, prints, packages, wrappers, receptacles, and advertisements in the possession of Defendants bearing or referring to the Accused Products, or any colorable imitation thereof, and all plates, molds, matrices, and other means of making the same, be delivered to Golight for destruction;

5. Ordering Defendants to file with the Court and serve on Golight's counsel within 30 days after service of the injunction, a written report, sworn under oath, setting forth in detail the manner and form in which Defendants have complied with the injunction;

6. For an accounting of all profits derived from Defendants' unlawful conduct, at Defendants' expense;

7. Awarding Golight damages arising out of Defendants' infringement of U.S. Patent No. 9,255,687 in an amount not less than a reasonable royalty for each act of infringement pursuant to 35 U.S.C. § 284, and trebling those damages pursuant to 35 U.S.C. § 284, together with costs and pre- and post-judgment interest;

8. Finding that this is an "exceptional case" within the meaning of 35 U.S.C. § 285 and awarding reasonable attorneys' fees to Golight;

9. For imposition of a constructive trust on all revenues and profits from Defendants' infringement of the '687 Patent;

10. For exemplary and/or punitive damages;

11. For the recovery of costs, pre-judgment and post-judgment interest to the extent applicable; and

12. For such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Golight demands a trial by jury on all issues so triable.

Respectfully submitted,

DATED: March 1, 2017

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