

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Blu Dot Design & Manufacturing, Inc.,

Case No. _____

Plaintiff,

v.

Gold Leaf Holding Ltd.,
d/b/a Rove Concepts,
a Canadian corporation,

Defendant.

COMPLAINT AND JURY DEMAND

Blu Dot Design & Manufacturing, Inc. (“Blu Dot”), for its Complaint against Defendant Gold Leaf Holding Ltd., d/b/a Rove Concepts (“Rove Concepts”), states and alleges as follows:

THE PARTIES

1. Blu Dot is a Minnesota corporation with its principal place of business in Minneapolis, Minnesota. Blu Dot designs and makes modern home furnishings.
2. On information and belief, Rove Concepts is a corporation organized and existing under the laws of British Columbia, Canada, having a principal place of business at 990 West 7th Avenue, Vancouver, British Columbia, Canada.
3. Blu Dot brings this lawsuit because Rove Concepts has unlawfully copied Blu Dot’s original and distinctive Stilt Lamp Designs. As shown in the images below, Rove Concepts has infringed Blu Dot’s copyright and trade dress because Rove

Concepts' "Nordic" lamp designs share at least the following elements with Blu Dot's "Stilt" lamp designs: (1) three legs that descend from a single base leg of the same width and depth; (2) each of the three legs pivots horizontally away from the center before angling down to the floor; (3) a portion of upper limb of each leg is stacked on top of each other making the legs different heights; (4) the legs angle out to form a tripod-like base; and (5) a smooth fabric-covered shade.



Blu Dot Stilt Floor Lamp



Rove Concepts "Nordic Floor Lamp"



Blu Dot Stilt Table Lamp



Rove Concepts "Nordic Table Lamp"

JURISDICTION AND VENUE

4. This is an action for copyright infringement under the U.S. Copyright Act, 17 U.S.C. § 101 *et seq.*, and trade dress infringement and unfair competition arising under the federal Lanham Act, 15 U.S.C. § 1114 *et seq.*

5. The Court has jurisdiction under 28 U.S.C. § 1338 and 1367. Venue is proper under 28 U.S.C. § 1391(b)-(d). On information and belief, Rove Concepts has transacted business in this district, and a substantial part of the events giving rise to the claims occurred in this district.

6. The Court has personal jurisdiction over Rove Concepts because Rove Concepts conducts substantial business in this forum and because this action arises in part from Rove Concepts' transaction of business within the State of Minnesota and its commission of wrongful acts within the State of Minnesota. Blu Dot has been harmed and continues to suffer harm in the State of Minnesota from Rove Concepts' acts.

BLU DOT'S RIGHTS

7. Blu Dot owns copyrights in the Stilt Floor Lamp Design and Stilt Table Lamp Design and filed applications for registration for each work of artistic design with the United States Copyright Office on September 30, 2016.

8. Blu Dot also has had common law copyright rights in the works since their creation in 2008.

9. In addition, Blu Dot also owns the distinctive trade dress for Stilt lamp designs. The non-functional trade dress is shown below and consists of a combination of features that combine to create the unique look and feel of Blu Dot's Stilt lamps.



10. The trade dress for the Stilt lamps include, but is not limited to, the following elements (hereafter “Trade Dress”):
 - three legs that descend from a single base leg of the same width and depth;
 - each of the three legs pivots horizontally away from the center before angling down to the floor;
 - a portion of upper limb of each leg is stacked on top of each other making the legs different heights;
 - the legs angle out to form a tripod-like base; and
 - a smooth fabric-covered shade.
11. Blu Dot began using the Trade Dress in 2010.
12. As a result of Blu Dot’s use of the Trade Dress, and through its efforts to promote the look and feel of Stilt lamps, the Trade Dress has gained widespread public recognition, and has become a highly valuable asset representing substantial good will.
13. Blu Dot’s Trade Dress is distinctive and customers rely upon it to differentiate the source of services.

BLU DOT'S CREATION AND MARKETING OF STILT LAMPS

14. Three college friends, two architects and a sculptor started Blu Dot in 1997.

15. After college, they had looked for modern design furniture to furnish their first homes, but found that the things they could afford they didn't like, and the things they liked they couldn't afford. Figuring they weren't alone, they have been designing things they love in their Minneapolis studio ever since.

16. They describe their process on their web site at www.bludot.com:

. . . [Our design process is founded on collaboration. Not just among ourselves as we play show-and-tell with concepts, but as a total collaboration from pencil and paper, materials and machines, even packaging and assembly. We like to think that the form is almost inevitable, a by-product of the process. Our job is simply to help it emerge as beautifully and as efficiently as possible. We design it. We stand behind it. We hope you dig it.

17. Andrew Blauvelt, Design Director and Curator of the Walker Art Center said of Blu Dot, "Their furniture has a spirit and ingenuity, a down-to-earth appeal."

18. Marisa Bartolucci, in the book Contemporary American Furniture, which she co-authored, said, "With the inventive, can-do spirit that characterized the work of the Eameses, Blu Dot has resurrected the values of the Good Design movement and its popular potential."

19. Blu Dot sells its furniture at its Blu Dot stores in California, New York, Texas, Minneapolis, as well as in Mexico and Australia. It also sells online at www.BluDot.com and through other independent retailers such as Target, Wayfair, and YLiving.

20. Blu Dot also promotes on social media, including Facebook, Twitter, Pinterest, Tumblr and Instagram.

21. The Stilt floor and table lamps were first created in 2008. They were first displayed publicly in May 2010 at the International Contemporary Furniture Fair, North America's premiere trade show for contemporary design. The Stilt lamps were first sold later that year, on November 18, 2010.

ROVE CONCEPTS' WRONGFUL CONDUCT

22. In late August, 2016, Blu Dot learned that Rove Concepts was selling the "Nordic Floor Lamp" and "Nordic Table Lamp" depicted below:



23. On August 30, 2016, Blu Dot sent a cease and desist letter to Rove Concepts, reminding Rove Concepts of Blu Dot's copyright and trade dress rights and demanding that Rove Concepts refrain from offering the "Nordic Floor Lamp" and "Nordic Table Lamp" for sale. Rove Concepts did not respond to Blu Dot's letter.

24. In September, 2016, Blu Dot sent a follow up letter. Again, Rove Concepts did not respond.

25. The designs of Blu Dot's "Stilt" lamps and Rove Concepts' "Nordic" lamp are strikingly and confusingly similar.

26. Rove Concepts incorporates all elements of Blu Dot's Trade Dress, including, but not limited to (1) three legs that descend from a single base leg of the same width and depth; (2) each of the three legs pivots horizontally away from the center before angling down to the floor; (3) a portion of upper limb of each leg is stacked on top of each other making the legs different heights; (4) the legs angle out to form a tripod-like base; and (5) a smooth fabric-covered shade.

27. Rove Concepts is selling its "Nordic Floor Lamp" for about half the price of Blu Dot's "Stilt Floor Lamp" and selling its "Nordic Table Lamp" for less than a third of the price of Blu Dot's "Stilt Table Lamp."

ROVE CONCEPTS' COPYING

28. Blu Dot's owns the copyright in the original works of artistic design, "Stilt Floor Lamp Design" and "Stilt Table Lamp Design" (hereafter, collectively the "Works").

29. The Works are widely available at Blu Dot's stores, at independent retailers, and online at www.BluDot.com and other online locations.

30. Rove Concepts had access to the Works.

31. Rove Concepts' "Nordic" lamp designs are strikingly similar to the Works.

LIKELIHOOD OF CONFUSION

32. Given the similarity between the trade dress of Blu Dot’s “Stilt” lamp designs and Rove Concepts’ “Nordic” lamp designs, there is a likelihood that consumers will buy a Rove Concepts’ lamp under the mistaken belief that it comes from, is sponsored or licensed by, or is associated or affiliated with Blu Dot, the maker of the “Stilt” lamp design.

33. The likelihood of confusion is further exacerbated by the fact that consumers can easily find both designs online, and consumers are unlikely to exercise a great deal of care before making a purchase.

34. Confusion is also likely because Rove Concepts is selling its designs in the same geographic area as Blu Dot’s designs and both sell online.

35. The foregoing allegations are incorporated in the claims below.

COUNT ONE
Copyright Infringement

36. Blu Dot owns the copyright in each of the Works.

37. Rove Concepts infringed Blu Dot’s copyright in each of the Works by copying, publicly displaying copies and distributing copies of the Works.

38. Blu Dot has been damaged by Rove Concepts’ infringement in an amount to be proven at trial

39. Blu Dot is suffering irreparable harm and will continue to suffer irreparable harm unless Rove Concepts’ wrongful infringement of Blu Dots copyrights is enjoined.

COUNT TWO
Trade Dress Infringement
in Violation of Section 43 of the Lanham Act

40. Rove Concept's conduct described in the foregoing paragraphs constitutes unauthorized use in commerce, in connection with goods, of words, terms, names, symbols, or devices, or combinations thereof, or false designation of origin, false or misleading representation of fact which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Rove Concepts with Blu Dot, or as to the origin, sponsorship, or approval of the "Nordic" lamp designs by Blu Dot in violation of 15 U.S.C. § 1125(a).

41. Rove Concepts' actions were not authorized by Blu Dot.

42. Rove Concepts acted deliberately and willfully in attempt to trade upon the goodwill associated with Blu Dot's designs.

43. Rove Concepts' conduct is causing, and will continue to cause, irreparable harm to Blu Dot unless it is enjoined by this Court.

44. Blu Dot has suffered damages as a result of Rove Concepts' actions in an amount to be proven at trial.

COUNT THREE
Unfair Competition

45. Rove Concepts' conduct described in the foregoing paragraphs constitutes unfair competition.

46. Blu Dot has been damaged as a result of Rove Concepts' actions in an amount to be proven at trial.

JURY DEMAND

47. Blu Dot demands a jury trial for all issues triable to a jury.

PRAYER FOR RELIEF

WHEREFORE, Blu Dot asks the Court to:

1. Enter judgment against Rove Concepts in favor of Blu Dot, in an amount to be determined at trial;
2. Preliminarily and permanently enjoin Rove Concepts from producing, promoting, advertising, distributing, or selling its “Nordic Floor Lamp” and “Nordic Table Lamp” depicted above;
3. Declare this case exceptional under 15 U.S.C. § 1117 and award Blu Dot treble damages and attorneys’ fees for Rove Concepts’ willful infringement;
4. Award Blu Dot enhanced damages in light of Rove Concepts’ intentional and willful trademark and trade dress infringement;
5. Award Blu Dot the costs and fees incurred in this action, including reasonable attorneys’ fees; and
6. Grant any other relief the Court deems just and equitable.

Dated: October 6, 2016

/s/ Lora M. Friedemann

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