

Small Business in Boerne, Texas Files Suit after Brookstone Insists that Its Products be Made in China

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The besieged American economy has enough competition abroad without Americans selling each other out in an attempt to eke out a few extra dollars. Yet that is precisely what Brookstone allegedly did to one American inventor and small businessman, as recounted by Plaintiffs' Original Complaint in Civil Action No. 1:12-CV-00809; In the United States District Court for the Western District of Texas—Austin Division; Tompkins et al. v. Brookstone, Inc. et al.

The recently filed Original Complaint filed by Tompkins Research, Inc. and its owner, Kurt Tompkins, against Brookstone Inc., and Brookstone Company, Inc. (collectively, "Brookstone") alleges unfair competition, violation of intellectual property rights, fraud and other claims. The case arises out of Tompkins's popular product, the Bedfan.

As described in Tompkins's Original Complaint, Tompkins invented the Bedfan to help people who want to reduce their nighttime air conditioning usage, menopausal women suffering from hot flashes and couples who prefer to sleep at different temperatures in the same bed. The Bedfan was invented, engineered, designed and manufactured in Texas. It was a classic "Made in the USA" product.

According to Tompkins's Original Complaint, the Bedfan has been featured on numerous national and local TV shows, including Good Morning America, Dr. Oz, The View, and Fox and Friends, among others. Brookstone began selling the product in 2008 and it soon became a hit.

Tompkins's Original Complaint alleges that Brookstone began to pressure Tompkins to move the production and manufacture of the Bedfan from Texas to China. Tompkins resisted. He was proud to have his product manufactured in Texas and was happy with the quality of his U.S.-manufactured product.

Tompkins's Original Complaint further alleges that, since Brookstone could not get Tompkins's agreement to move the Bedfan's manufacturing to China, it resorted to stealing Tompkins's intellectual property in the Bedfan. Brookstone has now introduced into the market their "New Bed Fan." The New Bed Fan, offered by Brookstone in contravention of its attempts to assure Tompkins that it had no plans to pirate his Bedfan and in violation of Tompkins's property rights, is made in China.

As described in Tompkins's Original Complaint, Brookstone's 10-K securities filing for the year ending January 1, 2011 brags to the investing public that Brookstone's products are predominantly made in China and other Asian markets. Accordingly, Tompkins's Original Complaint alleges that Brookstone's unlawful actions toward him are part of Brookstone's overarching business strategy to move American jobs overseas.

Kurt Tompkins and Tompkins Research, Inc. are represented by David Dunham, Don Taylor, and Anthony Ricciardelli of Taylor Dunham, LLP.

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