

August 1, 2000

Dear : _____

I am general counsel for Chihuly Inc. A client of ours recently notified us regarding a flier created by you, in which you reproduce a chandelier quite similar to Chihuly's own copyrighted *Chandelier* designs. We are concerned that the public may confuse your chandelier replicas with Chihuly originals. To avoid any potential copyright infringement and future litigation, we request that you immediately cease and desist the advertising, creation and sales of chandeliers that resemble those created by Chihuly. If you believe that you are not infringing on Chihuly's copyrighted designs, please let us know. You can reach us by fax at (206) 781-1906, or by email at LiseE@chihuly.com. I have attached hereto a copy of one of the chandeliers that gave rise to our concerns. If you have any questions, please feel free to contact me at: (206) 781-8707.

Sincerely,

Lise Ellner
General Counsel, Chihuly Inc.

Lise Ellner, General Counsel
Chihuly, Inc.
1111 NW 50th Street
Seattle, WA 98107-5120

RE: _____

Dear Counsel:

Our firm represents _____, who do business here. _____. They have requested that I respond to your letter of August 1, 2000. After reviewing — catalog and web site, I am satisfied that even a layman such as myself could not confuse the _____ products with the Chihuly designs.

Given the level of success that Mr. Chihuly has achieved, it is probably a compliment that you deem him an economic competitor. Mr. _____, however, was very offended by the use of the term "chandelier replica" in your letter. His chandeliers are a design which he developed himself over the past several years. Calling his work a "replica" denotes copying or reproducing a design in such a way as to make it difficult to distinguish from the original. Mr. _____ knows of no chandelier made by Mr. Chihuly that has a light inside it. Nor has he seen or heard of any Chihuly original in the same size, colors, lighting system, assembly system or exact glass design as his.

Mr. _____ can document the developmental design stages of his work beginning in the late 1980's, when he sold ornaments clustered together on a hanging cord. Eventually he made larger cluster pieces with the glass attached to a chain. Lighting was added and small design changes to the structure and shape of individual chandeliers developed over time. Mr. _____ offers many sizes and shapes in his chandelier line. The variety of design work which Mr. _____ produces shows a consistent line of development, not forms which are copied from another person's products.

You are aware, of course, that chandeliers themselves are not a particularly new idea. Craftsmen have been creating them for centuries by attaching glass to a metal armature.

Mr. _____ has provided me with the following list of the more obvious distinctions between Mr. Chihuly's work and his own:

Lise Ellner, General Counsel

August 8, 2000

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- (1) Scale of the completed chandelier: Chihuly - 5'-30' or more, _____ - 2'-4'
- (2) Dimensions of individual pieces within the chandelier: Chihuly - 1'-8', _____
_____ 1.5"-18"
- (3) Lighting system: Chihuly - lit by gallery, museum or other spotlights separate from the chandelier, _____ - lit from within by halogen bulb as an integral part of the chandelier
- (4) Function: Chihuly - functions solely as an artwork/sculpture, _____ - functions as a light source and a decorative art piece in the home environment
- (5) Execution: Chihuly - by a "team" of workers in a factory setting (approximately 1800 pounds of glass per DAY), _____ - by an individual working alone in a studio glass setting (120 pounds of glass per WEEK)
- (6) Variety of individual pieces within the chandelier: Chihuly - many forms and shapes of unknown count, _____ - four basic forms (mini melons, medium melons, large melons, curlys)
- (7) Overall design: Chihuly - some symmetrical, some asymmetrical (pieces on one side usually dissimilar to opposing pieces), _____ - basically symmetrical (similar pieces balanced on each side, all the way around the chandelier)
- (8) Number of individual pieces within a single chandelier: Chihuly- 900-3000 (Atlantis project), _____ - 55-115
- (9) Price: Chihuly - \$80,000.00 and up (retail), _____ - \$2,600.00 - \$4,200.00 (retail)

_____ is a studio glass artist who works alone in a studio which he built with his own hands. Mr. Chihuly works on a scale which he cannot duplicate as an individual glassblower. Mr. _____ has developed his own market on a scale which will fit in a living home environment. Perhaps the most important factor is that Mr. _____ and Mr. Chihuly simply do not compete with each other. Even if Mr. _____ were to accept your invitation that he give up a way of life which he has pursued for decades, Chihuly, Inc., would not be filling the orders which he would have to cancel.

_____ is an original, and his work is his own. We are satisfied that he is not infringing on Chihuly's copywrited designs.

Very truly yours,

SD/db
cc