

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____

FRICTIONLESS WORLD, LLC, a Colorado limited liability company,

Plaintiff,

vs.

CHAMPION POWER EQUIPMENT, INC., a California corporation,

Defendant.

COMPLAINT AND JURY DEMAND

Plaintiff Frictionless World, LLC (“Frictionless World”) states and alleges as follows for its Complaint against Champion Power Equipment, Inc. (“Champion”):

I. PARTIES

1. Frictionless World is a Colorado limited liability company with its principal place of business in Westminster, Colorado. Frictionless World is the assignee of U.S. Patent No. D681,701 (“the ‘D701 Patent’”). A true and correct copy of the D701 Patent is attached as Exhibit 1 to this Complaint, incorporated by this reference herein.

2. On information and belief, Champion is a California corporation with its principal place of business in Santa Fe Springs, California. Champion manufactures, markets, and sells log splitter products, including the 25-Ton Horizontal/Vertical Gas Log Splitter, Model No. 10036, in Colorado. (*See* Exhibit 2, which is incorporated by reference herein).

II. SUBJECT MATTER JURISDICTION

4. This is an action for design patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 101 *et seq.*

5. This Court has subject matter jurisdiction over this patent infringement claim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

III. PERSONAL JURISDICTION AND VENUE

6. On information and belief, Champion sells, continues to sell, and offers for sale to Colorado residents its 25-Ton Horizontal/Vertical Gas Log Splitter.

7. On information and belief, Champion also has shipped the 25-Ton Horizontal/Vertical Gas Log Splitter into Colorado.

8. Champion further offers for sale its 25-Ton Horizontal/Vertical Gas Log Splitter, Model No. 10036 on an interactive website, <http://www.powerequipmentdirect.com/Champion-100326-Log-Splitter/p71246.html>, which allows consumers, including those located in Colorado, to purchase that product. Exhibit 2.

9. Based on the above facts, Champion has purposefully availed itself of the rights and privileges of conducting business in Colorado and is subject to personal jurisdiction in this judicial district.

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400.

IV. GENERAL ALLEGATIONS

11. Frictionless World is in the business of providing outstanding design, engineering, outsourcing and quality control of farm, ranch and garden machinery as well as equipment and

supplies for development and delivery of custom products to its customers. Frictionless World sells horizontal-vertical log splitters under the brand name Dirty Hands Tools.

A. The ‘D701 Patent

12. On May 7, 2013, the United States Patent and Trademark Office granted the ‘D701 Patent for the design of a “Log Splitter Beam.” *See* Exhibit 1.

13. Among other things, the ‘D701 Patent claims a certain design on a log splitter beam as depicted below in Figure 1 (identified as Figure 2 in the ‘D701 Patent).

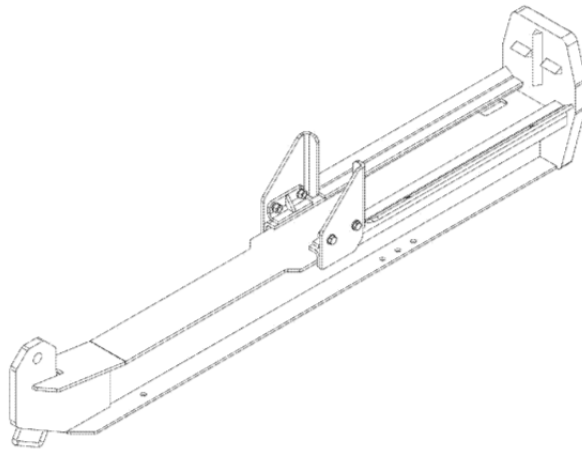


Fig. 2

(‘D701 Patent, Figure 2.)

16. Frictionless World manufactures, markets and sells devices incorporating the inventions disclosed and claimed in the ‘D701 Patent and those devices are properly marked as provided for in the patent statutes.

B. Champion's Infringing Products

17. Champion is making, using, offering for sale, and selling within the United States or importing in the United States a 25-Ton Horizontal/Vertical Gas Log Splitter.

18. A claim chart is shown below that compares certain figures in the 'D701 Patent to pictures of a 25-Ton Horizontal/Vertical Gas Log Splitter, Model No. 10036, as shown on the interactive website, <http://www.powerequipmentdirect.com/Champion-100326-Log-Splitter/p71246.html>, last accessed November 28, 2016, where the product is being offered for sale in Colorado.



19. The 25-Ton Horizontal/Vertical Gas Log Splitter, Model No. 10036 directly infringes the Frictionless World Log Splitter, literally and/or under the doctrine of equivalents.

V. FIRST CLAIM FOR RELIEF
(Infringement of U.S. Patent No. D681,701)

20. Frictionless World incorporates paragraphs 1 through 19 as though fully set forth herein.

21. Champion has infringed the 25-Ton Horizontal/Vertical Gas Log Splitter, Model No. 10036 by making, using, selling and/or offering for sale in the United States or importing the 25-Ton Horizontal/Vertical Gas Log Splitter, Model No. 10036 into the United States, without license or authority from Frictionless World, in violation of 35 U.S.C. § 271.

22. As a result of Champion's infringing acts, Frictionless World has suffered and will continue to suffer irreparable injury for which there is no adequate remedy at law, entitling it to injunctive relief under 35 U.S.C. § 283.

VI. PRAYER FOR RELIEF

WHEREFORE, Frictionless World prays that this Court enter its Judgment and enter an Order:

1. Preliminarily and permanently enjoining Champion and its officers, agents, servants, employees, successors, assigns, and all persons in active concert with any of them, from infringing U.S. Patent No. D681,701;

2. Awarding to Frictionless World monetary damages in an amount equal to the greater of Frictionless World's lost profits or a reasonable royalty pursuant to 35 U.S.C. § 284, or all profits attributable to the article of manufacture pursuant to 35 U.S.C. § 289;

3. Awarding to Frictionless World its reasonable attorney's fees pursuant to 35 U.S.C. § 285;

4. Awarding to Frictionless World its costs incurred in this action, including expert witness fees; and

5. Awarding to Frictionless World prejudgment interest, post judgment interest and any such other and further relief as the Court may deem just and proper.

VII. JURY DEMAND

Frictionless World hereby demands a trial by jury as to all issues so triable.

Respectfully submitted,

Dated: December 21, 2016

By: s/ Thomas P. Howard
Thomas P. Howard
Vandana Koelsch
William C. Groh, III
thoward@thowardlaw.com
vkoelsch@thowardlaw.com
wgroh@thowardlaw.com
THOMAS P. HOWARD LAW, LLC
842 W. South Boulder Road, Suite 100
Louisville, CO 80027
303-665-9845
303-665-9847 (fax)
ATTORNEYS FOR PLAINTIFF
FRICIONLESS WORLD, LLC