

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

GO-GO BABYZ CORPORATION,

Plaintiff,

v.

BRICA, INC., AND TOYS “R” US-  
DELAWARE, INC,

Defendants.

Civil Action No. 13-1261-GMS

Demand for Jury Trial

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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Go-Go Babyz Corporation (“Go-Go Babyz”) files this Complaint for Patent Infringement against Brica, Inc. (“Brica”) and Toys “R” Us-Delaware, Inc. (“TRU-Delaware”) (collectively, “Defendants”) and, in support thereof, alleges as follows:

**The Parties**

1. Plaintiff Go-Go Babyz Corporation (“Go-Go Babyz”) is a corporation organized under the laws of Delaware with a place of business at 3530 Charter Park Drive, San Jose, CA 95136.

2. Upon information and belief, Defendant Brica, Inc. (“Brica”) is a corporation organized under the laws of Florida with a place of business at 500 West 5th Street Suite 220, Charlotte, NC 28202. Baby products of Brica, including car seat transporters, are sold in this Judicial District and throughout the United States. Brica may be served through its registered agent, Brian T. Miller, 225 Blue Ridge Parkway, Freeport, FL 32439.

3. Upon information and belief, Toy “R” Us-Delaware, Inc. (“TRU-Delaware”) is a corporation organized under the laws of Delaware with a place of business at One Geoffrey Way, Wayne, NJ 07470. TRU-Delaware sells child and baby products in this Judicial District and throughout the United States on line and in retail stores under the brands Toys “R” Us and Babies “R” Us (“BRU”).

### **Jurisdiction and Venue**

4. This is an action for patent infringement arising under the Patent Laws of the United States, U.S.C. Title 35. The Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1338(a).

5. The Court has personal jurisdiction over Brica and TRU-Delaware which have purposefully and voluntarily placed infringing products into the stream of commerce with the knowledge and expectation that they will be purchased by consumers in this Judicial District. The Court further has personal jurisdiction over TRU-Delaware as a resident of this Judicial District.

6. Venue is proper in this jurisdiction pursuant to 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

### **Facts**

7. On February 9, 2010, United States Patent No. 7,658,389 (“the ‘389 Patent”) entitled CHILD SAFETY SEAT DOLLY ASSEMBLY issued from an application filed on May 5, 2006, in the names of Kenneth P. Ostrow and Kerry Williams. A copy of the ‘389 Patent is attached as Exhibit A.

8. Go-Go Babyz is the owner of the '389 Patent by assignment from the inventors. The '389 Patent was duly and legally issued by the United States Patent and Trademark Office after a full and complete examination and is entitled to a presumption of validity.

9. Go-Go Babyz is in the business of selling baby products and pioneered a child safety seat dolly assembly (also known as a car seat transporter) covered by the claims of the '389 Patent. Go-Go Babyz's patented car seat transporter is sold under the name gogoKidz Travelmate. The box in which the car seat transporter is sold is marked with the full number of the '389 Patent. Go-Go Babyz has spent substantial time and resources developing, marketing, promoting, and obtaining patent protection for its gogoKidz Travelmate car seat transporter, and at least until recently it has represented approximately 80% of Go-Go Babyz's sales.

10. Upon information and belief, Brica announced the introduction of a car seat transporter in the fall of 2011 and delivered its car seat transporter to TRU-Delaware and others throughout the United States starting in about March of 2012. Since that time, TRU-Delaware and others have sold Brica's car seat transporter throughout the United States and in this Judicial District under the name Roll 'n Go Travelcart. The Roll 'n Go Travelcart car seat transporter is covered by one or more valid and enforceable claims of the '389 Patent.

11. Prior to the introduction of the Roll 'n Go Travelcart car seat transporter in the fall of 2011, Go-Go Babyz's gogoKidz Travelmate car seat transporter was the only car seat transporter product of its type on the market and there was no real competition for the gogo Kidz Travelmate.

12. Since Brica's introduction of its Roll 'n Go Travelcart car seat transporter, Go-Go Babyz has lost approximately 70% of its sales of its patented gogo Kidz Travelmate car seat

transporters. As a result of the infringement of the '389 Patent by Brica and TRU-Delaware, Go-Go Babyz has suffered severe financial hardship.

**Claim for Patent Infringement**

13. The allegations of paragraphs 1-12 are hereby incorporated by reference.

14. Defendants have infringed and continue to infringe the '389 Patent by making, using, selling, and/or offering to sell within the United States, and/or importing into the United States, products including the Roll 'n Go Travelcart car seat transporter covered by at least claim 32 of the '389 Patent in violation of 35 U.S.C. § 271(a).

15. Upon information and belief, Brica has had knowledge of the '389 Patent from at least before it introduced the Roll 'n Go Travelcart car seat transporter in the fall of 2011.

16. Despite the fact that it knew of the '389 Patent prior to the introduction of its Roll 'n Go Travelmate car seat transporter, Brica introduced that product in the fall of 2011 and started selling it in the United States in March of 2012.

17. Upon information and belief, at the time Brica introduced the Roll 'n Go Travelcart car seat transporter in the fall of 2011, Brica knew or should have known that there was an objectively high likelihood that its actions constituted infringement of the '389 patent.

18. Upon information and belief, at the time Brica started selling its Roll 'n Go Travelcart car seat transporter throughout the United States in about March of 2012 through TRU-Delaware and others, Brica knew or should have known that there was an objectively high likelihood that its actions constituted infringement of the '389 patent.

19. Defendants have infringed and continue to infringe the '389 Patent and will continue to do so unless enjoined by this Court. Go-Go Babyz will suffer irreparable harm including injury to its finances and business if the infringement is allowed to continue.

20. The infringement by Brica has been willful and deliberate, entitling Go-Go Babyz to the recovery of increased damages under 35 § U.S.C. 284.

21. Infringement by Brica of the '389 Patent renders this case "exceptional" justifying an award of attorney's fees and costs to Go-Go Babyz under 35 U.S.C. § 284.

#### **Lost Profit Damages**

22. But for the infringement by Brica and TRU-Delaware, Go-Go Babyz would have made the sales made by Brica and TRU-Delaware. Thus, Go-Go Babyz has lost sales of its patented gogo Kidz Travelmate product and is entitled to receive the profits it would have otherwise received for each such lost sale or, in the alternative, lost profits based on market share.

23. There are no acceptable noninfringing substitutes for Go-Go Babyz's patented gogo Kidz Travelmate product.

#### **Reasonable Royalty Damages**

24. To the extent Go-Go Babyz is not entitled to lost profits for any of the accused products made, used, sold, offered for sale or imported by Defendants, Go-Go Babyz is entitled to no less than a reasonable royalty for such sales under 35 U.S.C. § 284.

#### **Other Damages**

25. As a direct result of Defendants' infringement, Go-Go Babyz's business has suffered significant financial harm. For example, because of its significantly reduced revenues resulting from the infringement, Go-Go Babyz was forced to curtail its product development, its promotion of other products, and its participation in foreign markets. Each of these losses of revenue is a direct consequence of Defendants' infringement for which Go-Go Babyz is entitled to compensation in the form of damages for patent infringement under 35 U.S.C. § 284.

**Prayer for Relief**

WHEREFORE Go-Go Babyz prays for entry of judgment and an order that:

- (1) Defendants have infringed one or more claims of the '389 Patent literally and/or under the doctrine of equivalents;
- (2) Defendants account for and pay to Go-Go Babyz all damages, assessment of interest, and costs of Go-Go Babyz caused by Defendants' patent infringement;
- (3) Go-Go Babyz be granted preliminary and permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Defendants, their officers, agents, servants, employees, affiliates and those persons in active concert of participation with Defendants from further acts of infringement of the '389 Patent;
- (4) Defendant Brica account for and pay increased damages for willful infringement under 35 U.S.C. § 284;
- (5) This is an exceptional case under 35 U.S.C § 285 and costs and attorney's fees be awarded to Go-Go Babyz;
- (6) Such further and additional relief be granted to Go-Go Babyz as the Court deems just and proper under the circumstances.

**Demand for Jury Trial**

Go-Go Babyz demands trial by jury on all claims and issues so triable.

Dated: November 12, 2013

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