

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
AT LEXINGTON**

**CRONOS TECHNOLOGIES, LLC,**

**Plaintiff,**

v.

**TEMPUR-PEDIC MANAGEMENT,  
INC. and TEMPUR-PEDIC NORTH  
AMERICA, LLC**

**Defendant.**

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) **Civil Action No.** \_\_\_\_\_  
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) **JURY TRIAL DEMANDED**  
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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Cronos Technologies, LLC (“Plaintiff” or “Cronos”), by and through its undersigned counsel, files this Complaint for patent infringement against Defendants Tempur-Pedic Management, Inc. (“TPMI”) and Tempur-Pedic North America, LLC (“TPNA”) (collectively, “Defendants”) as follows:

**NATURE OF THE ACTION**

1. This is a patent infringement action to stop Defendants’ infringement of Plaintiff’s United States Patent No. 5,664,110 entitled “*Remote Ordering System*” (hereinafter, the “’110 patent”); referred to as the “Patent-in-Suit”). A copy of the ‘110 patent, is attached hereto as Exhibit A. Plaintiff is the exclusive licensee of the Patent-in-Suit with respect to the Defendant. Plaintiff seeks injunctive relief and monetary damages.

**PARTIES**

2. Cronos is a limited liability company organized under the laws of the State of Delaware. Plaintiff maintains its principal place of business at 717 N. Union St. #65, Wilmington, Delaware 19805.

3. Plaintiff is the exclusive licensee under the Patent-in-Suit with respect to the Defendant, including the exclusive right to sue the Defendant for infringement and recover past damages.

4. Upon information and belief, TPMI is a corporation duly organized and existing under the laws of the State of Delaware, having a place of business located at 1713 Jaggie Fox Way, Lexington, KY, 40511. Upon information and belief, TPMI does business through its website, [www.tempurpedic.com](http://www.tempurpedic.com), which is accused of infringing the Patent-in-Suit.

5. Upon information and belief, TPNA is a corporation duly organized and existing under the laws of the State of Delaware, having a place of business located at 1713 Jaggie Fox Way, Lexington, KY, 40511. Upon information and belief, TPNA does business through its website, [www.tempurpedic.com](http://www.tempurpedic.com), which is accused of infringing the Patent-in-Suit.

#### **JURISDICTION AND VENUE**

6. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

7. The Court has personal jurisdiction over Defendants because: Defendants have minimum contacts within the Commonwealth of Kentucky and the Eastern District of Kentucky; Defendant have purposefully availed themselves of the privileges of conducting business in the Commonwealth of Kentucky and the Eastern District of Kentucky; Defendants have sought protection and benefit from the laws of the Commonwealth of Kentucky; Defendants regularly conduct business within the Commonwealth of Kentucky and the Eastern District of Kentucky; and Plaintiff's causes of action arise directly from Defendants' business contacts and other activities in the Commonwealth of Kentucky and the Eastern District of Kentucky.

8. More specifically, Defendants, directly and/or through their intermediaries, ship, distribute, offer for sale, sell, and/or advertise (including the provision of an interactive web page) their products and services in the United States, the Commonwealth of Kentucky, and the Eastern District of Kentucky. Upon information and belief, Defendants have committed patent infringement in the Commonwealth of Kentucky and the Eastern District of Kentucky, have contributed to patent infringement in the Commonwealth of Kentucky and the Eastern District of Kentucky, and/or have induced others to commit patent infringement in the Commonwealth of Kentucky and the Eastern District of Kentucky. Defendants solicit customers in the Commonwealth of Kentucky and the Eastern District of Kentucky. Defendants have many paying customers who are residents of Commonwealth of Kentucky and the Eastern District of Kentucky and who use Defendants' products and services in the Commonwealth of Kentucky and the Eastern District of Kentucky.

9. Venue is proper in the Eastern District of Kentucky at Lexington pursuant to 28 U.S.C. §§ 1391 and 1400(b).

**COUNT I:**  
**INFRINGEMENT OF U.S. PATENT NO. 5,664,110**  
**BY TPMI**

10. The '110 patent was duly and legally issued by the United States Patent and Trademark Office on December 8, 1994 after full and fair examination. Plaintiff is the exclusive licensee under the '110 patent with respect to the TPMI, including the exclusive right to sue Defendant for infringement and recover past damages.

11. Plaintiff is informed and believes that TPMI owns, operates, advertises, and controls its website, [www.tempurpedic.com](http://www.tempurpedic.com), that infringes the '110 patent either literally or under the doctrine of equivalents. Upon information and belief, TPMI has infringed and

continues to infringe one or more claims of the '110 patent by making, using, providing a remote ordering terminal through its website, [www.tempurpedic.com](http://www.tempurpedic.com), that utilizes a database unit providing a user-specific database in this district and elsewhere in the United States.

12. TPMI's aforesaid activities have been without authority and/or license from Plaintiff.

13. Plaintiff is entitled to recover from TPMI the damages sustained by Plaintiff as a result of the TPMI's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

14. TPMI's infringement of Plaintiff's exclusive rights under the '110 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

**COUNT I:**  
**INFRINGEMENT OF U.S. PATENT NO. 5,664,110**  
**BY TPNA**

15. The '110 patent was duly and legally issued by the United States Patent and Trademark Office on December 8, 1994 after full and fair examination. Plaintiff is the exclusive licensee under the '110 patent with respect to the TPMI, including the exclusive right to sue Defendant for infringement and recover past damages.

16. Plaintiff is informed and believes that TPNA owns, operates, advertises, and controls its website, [www.tempurpedic.com](http://www.tempurpedic.com), that infringes the '110 patent either literally or under the doctrine of equivalents. Upon information and belief, TPNA has infringed and continues to infringe one or more claims of the '110 patent by making, using, providing a remote

ordering terminal through its website, www.tempurpedic.com, that utilizes a database unit providing a user-specific database in this district and elsewhere in the United States.

17. TPNA's aforesaid activities have been without authority and/or license from Plaintiff.

18. Plaintiff is entitled to recover from TPNA the damages sustained by Plaintiff as a result of the TPNA's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

19. TPNA's infringement of Plaintiff's exclusive rights under the '110 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

**JURY DEMAND**

20. Plaintiff demands a trial by jury on all issues.

**PRAYER FOR RELIEF**

Plaintiff respectfully requests the following relief:

- A. An adjudication that one or more claims of the '110 patent have been infringed, either literally and/or under the doctrine of equivalents, by the Defendant and/or by others to whose infringement the Defendant has contributed and/or by others who infringement has been induced by Defendant;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendant's acts of infringement together with prejudgment interest;
- C. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendant from further acts of (1) infringement, (2) contributory infringement,

and (3) actively inducing infringement with respect to the claims of the Patent-in-Suit;

- D. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with U.S.C. § 285; and,
- E. Any further relief that this Court deems just and proper.

Respectfully submitted this 31<sup>st</sup> day of July, 2012.

**s/John E. Spainhour**

John E. Spainhour

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***Attorneys for Plaintiff Cronos Technologies, LLC***