

**In the United States District Court  
For the Southern District of Florida**

Megdal Associates, LLC,

Plaintiff,

vs.

La-Z-Boy Inc.,

Defendant.

Civil Action No. 9:14-cv-81476-WJZ

Filed Electronically

**Jury Trial Demanded**

**First Amended Complaint**

Plaintiff, Megdal Associates, LLC (“Plaintiff” or “Megdal Associates”) files this First Amended Complaint against Defendant La-Z-Boy Incorporated (“Defendant” or “La-Z-Boy”), and alleges as follows:

**Overview**

1. Megdal Associates brings this action for La-Z-Boy’s failure to pay royalties due to Megdal Associates under the parties’ 2002 Trade Secrets and Inventions Agreement (attached as Exhibit 1) (referred to as “the 2002 Agreement” or “the Agreement”), and failure to issue royalty reports to Megdal Associates as required by the 2002 Agreement; for La-Z-Boy’s refusal—twice—to allow Megdal Associates to conduct the audit of La-Z-Boy’s records expressly permitted by the 2002 Agreement; and for La-Z-Boy’s failure to cooperate as required by the 2002 Agreement. Megdal Associates seeks all lawful damages and other monetary and equitable relief to which it may be entitled due to La-Z-Boy’s refusal to acknowledge and respect Megdal Associates’ contract rights, all as detailed below.

2. The technology at issue in this Complaint is used to automate the movement of parts of so-called “motion furniture,” which includes recliners, love seats, sofas, and

sectionals.<sup>1</sup> The automation is accomplished through use of an electric motor and associated hardware that are combined to form a “drive system.”

3. La-Z-Boy seating products have historically had footrests and backrests that move in response to manual exertion by the seat’s occupant.

4. For many years, the footrest on La-Z-Boy products has been extended and retracted by the occupant manually rotating the wooden handle on the side of the furniture.

5. For many years, the backrest on La-Z-Boy products has been moved by the occupant exerting pressure on his or her back, while holding and pushing the armrests for leverage.

6. The technology at issue now allows these movements to be achieved by pressing buttons instead of using manual exertion. When an occupant of “power motion furniture” presses these buttons, the electrically powered drive system causes movement of parts of the furniture such as the footrest and backrest.

7. The technology at issue is owned by Megdal Associates, not La-Z-Boy.

### **The Parties**

8. Plaintiff Megdal Associates is a limited liability company organized under the laws of the Commonwealth of Pennsylvania, having its principal place of business in Boca Raton, Palm Beach County, Florida.

9. Megdal Associates has three members: Ms. Terry Megdal; Dr. William Megdal as Custodian for Rachel Rose Megdal, Lydia Camille Megdal, and Miriam Iris Megdal Under Georgia's Transfers To Minors Act; and Ms. Janice Faller. Ms. Megdal is a citizen and resident of the State of Florida. Dr. Megdal, and Rachel Rose Megdal, Lydia Camille Megdal, and Miriam Iris Megdal, are all citizens and residents of the State of Georgia. Ms. Faller is a citizen and resident of the Commonwealth of Pennsylvania.

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<sup>1</sup> In the trade, motion furniture generally refers to a category of home furniture products on which some part, such as the footrest, backrest, or another part moves. Stationary furniture, in contrast, refers to furniture where no part of it moves.

10. Neither Megdal Associates nor any member of Megdal Associates is or ever has been a citizen or resident of the State of Michigan.

11. Defendant La-Z-Boy is a corporation organized under the laws of the State of Michigan, having its principal place of business in Monroe County, Michigan.

### **Jurisdiction and Venue**

12. This Court has diversity jurisdiction under 28 U.S.C. § 1332.

13. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

14. The Plaintiff and its members, on one hand, and the Defendant, on the other hand, are citizens of different states within the meaning of 28 U.S.C. § 1332.

15. This Court has general and specific personal jurisdiction over the parties under the Constitution of the United States and the laws of the State of Florida, including without limitation Fla. Stat. § 48.193.

16. La-Z-Boy has had systematic and continuous contacts with the State of Florida, including without limitation by placing its products (including the specific powered motion furniture products at issue in this Complaint) into the stream of commerce in Florida and this District, by operating or licensing others to operate retail stores in Florida and in this District, and by other acts, including but not limited to sending company representatives and employees to Paul Megdal's home in Boca Raton, Florida, to learn the details of the Megdal Associates trade secrets and inventions at issue herein, and by entering into a 2002 Agreement with Megdal Associates pertaining thereto, which agreement is expressly governed by Florida law and by which La-Z-Boy has "consent[ed] to [the state and federal courts of Palm Beach County, Florida] exercise of personal . . . jurisdiction over [it]." Ex. 1, ¶ 20.01. As set forth above, La-Z-Boy has purposefully availed itself of the benefits and protections of Florida law.

17. Under the 2002 Agreement, both La-Z-Boy and Megdal Associates have consented to this Court exercising personal jurisdiction over them, and have contractually waived any right to make objections thereto. Ex. 1, ¶ 20.01.

18. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and due to the parties' mutual consent under the 2002 Agreement. Ex. 1, ¶ 20.01.

19. The West Palm Beach Division of this Court is the exclusive proper venue for this dispute because the parties agreed that Palm Beach County, Florida, would be the exclusive jurisdiction and forum for disputes arising out of or related in any way to the 2002 Agreement. Ex. 1, ¶ 20.01.

#### **History of Megdal Associates' Powered Motion Furniture**

20. In the 1980s, Paul and Florence Megdal moved to Florida, after raising their family in Pennsylvania.

21. The Megdals had owned retail furniture stores to support their family.

22. Florence Megdal worked side-by-side with Paul Megdal in the furniture business.

23. After moving to Boca Raton, Paul and Florence Megdal purchased several La-Z-Boy chairs (recliners) for their home.

24. From their years in the furniture business, Paul and Florence Megdal considered La-Z-Boy to be a premium brand.

25. By about 1995, Florence Megdal had become ill. As a result of her illness, Florence Megdal began experiencing some loss of strength.

26. Florence Megdal's loss of strength made it difficult for her to manually operate her La-Z-Boy chairs.

27. Florence Megdal's loss of strength and inability to easily open her La-Z-Boy chairs rendered them not very useful to her.

28. At the time of Florence Megdal's illness, Paul Megdal observed that his wife needed to rest more frequently than in the past, and that it was becoming increasingly difficult for her to manually operate her La-Z-Boy chairs.

29. As a result, Paul Megdal began thinking about and designing ways to electrically power the reclining function of La-Z-Boy motion furniture, including opening and closing of the footrest.

30. Paul Megdal had general knowledge of the products available in the furniture industry at the time. At the time, he was unaware of any electrically powered motion furniture available on the market.

31. Consequently, Paul Megdal decided to buy several La-Z-Boy chairs, and set out on a mission to design and build electrically powered drive systems that could be used to automate the movement of components of motion furniture.

32. At the time he started on this venture, Paul Megdal was just shy of 80 years old.

33. On a nearly constant basis, Paul Megdal had three or four pieces of La-Z-Boy motion furniture propped up on makeshift pedestals in his garage, in varying states of disassembly, and a few more similar pieces located within his home, as he worked diligently to solve the challenges facing his wife.

34. As Florence Megdal's health declined, her need for assistance in using her La-Z-Boy chairs became more acute.

35. After several years of effort, Paul Megdal successfully developed a number of different prototypes that represented different approaches to power drive systems for automating the movement of motion furniture parts such as the footrest.

36. Paul Megdal attached his prototype power drive systems to Florence Megdal's La-Z-Boy chairs. These prototypes allowed her to power operate the chairs.

37. Unfortunately, Florence Megdal passed away not long after Paul Megdal succeeded in getting his prototypes to power operate her La-Z-Boy chairs.

38. By 1998, Paul Megdal's prototypes had demonstrated proof of concept with respect to power operating the footrest, in that they would extend and retract the footrest (i) repeatedly without fail, (ii) at the right speed (not too slow and not too fast), (iii) with the right amount of power considering the varying weight of an occupant's legs that could be resting on it, (iv) with very little sound, (v) smoothly, (vi) in a manner that allowed for stopping the footrest at any point between the fully closed and fully opened positions, (vii) in a manner that allowed for backrest reclining, either simultaneously or sequentially, (viii) in a manner that did not cause binding or misalignment of the pantographic linkage system that extended and retracted the footrest, (ix) at a fairly low cost, (x) in a manner that did not require a complete re-design of the standard La-Z-Boy chair to accommodate the power drive system, and (xi) all at the touch of a button.

39. The design elements necessary to achieve a number of these functionalities were not reasonably ascertainable and, in fact, were unknown to La-Z-Boy at the time.

40. In the process, Paul Megdal learned what others had apparently learned before him – it was not easy to design electrically powered drive systems to successfully achieve all of these functionalities in motion furniture.

41. Paul Megdal's extensive work was necessary for him to develop the know-how, and devise the trade secret designs and design information, that were critical to achieving these functionalities.

42. Paul Megdal also understood that his small company did not have the manufacturing capability to commercialize his trade secrets and inventions, and therefore he looked to find furniture and furniture component manufacturers to work with.

43. Paul Megdal was committed to making each of his prototypes as effective and inexpensive as possible, so he continued to work on them even after achieving proof of concept.

44. At the time that Paul Megdal was creating his designs and design information in the mid-to-late 1990s, there had been prior attempts by furniture manufacturers, including La-Z-Boy, to electrically power the extension and retraction of the footrest.

45. On information and belief, the prior attempts to automate the extension and retraction of the footrest were unsuccessful in the sense that no electrically powered footrest systems were being successfully sold in the United States as of the late 1990s.

46. La-Z-Boy's prior efforts to design a commercially successful electrically powered motion furniture product failed.

47. La-Z-Boy considered its prior design "obsolete" by 1991.

48. To Megdal Associates' knowledge, Paul Megdal was the first United States inventor to come up with electrically powered drive systems for motion furniture that were both technologically and commercially successful.

49. For the past 14 years, starting at a time after La-Z-Boy first met Paul Megdal, La-Z-Boy has been selling electrically powered motion furniture on a continuing basis.

50. Before meeting Paul Megdal in 1999, La-Z-Boy was unsuccessful in selling electrically powered motion furniture.

51. On or about April 18, 2000, Paul Megdal formed Megdal Associates with his son and niece, and assigned thereafter all of his rights in his designs and design information to the company.

52. Paul Megdal treated Megdal Associates' designs and design information as valuable, confidential trade secrets and proprietary intellectual property.

53. Paul Megdal believed that Megdal Associates' designs and design information could possibly help others like his wife, as well as disabled people, to comfortably and easily enjoy using motion furniture.

54. Paul Megdal believed that Megdal Associates' designs and design information could be made appealing to all customer types, including the young and healthy.

55. Once La-Z-Boy had a chance to see Paul Megdal's prototypes in action, it was interested in offering products for sale that had the added comfort and ease of operation provided by Paul Megdal's electrically powered furniture drive systems.

56. Megdal Associates' designs and design information were subject to efforts to maintain their secrecy.

57. For example, in April 1999, Paul Megdal entered into a confidentiality agreement before he first disclosed any of his trade secrets to a La-Z-Boy company. *See Ex. 2.*

58. Additionally, in the process of working with prospective manufacturers, Megdal Associates required a confidentiality agreement from each entity to which it disclosed its designs and design information.

#### **Paul Megdal's Initial Dealings with La-Z-Boy**

59. In 1998 or 1999, Paul Megdal decided to contact Pat Norton of La-Z-Boy, who was La-Z-Boy's Chairman of the Board.

60. Paul Megdal wanted to see if La-Z-Boy had interest in evaluating Megdal's prototype designs and design information with an eye toward licensing them.

61. Paul Megdal contacted Pat Norton for these purposes.

62. Pat Norton advised Paul Megdal that La-Z-Boy did not have any electrically powered motion furniture products at the time, and, as a result, La-Z-Boy would be interested in evaluating Paul Megdal's prototype designs and design information.

63. Around this same time, Paul Megdal's daughter, Terry Megdal, traveled to the United Kingdom. While there, she met Mr. Tom Brown ("Brown"), the head of Centurion Furniture, PLC ("Centurion").

64. At the time Terry Megdal met Brown, Centurion was associated with La-Z-Boy, and held itself out as being a La-Z-Boy company.

65. Centurion was responsible for sales of La-Z-Boy product in the United Kingdom.



66. La-Z-Boy's Pat Norton and La-Z-Boy's Tom Brown discussed with each other the possibility of La-Z-Boy working with Paul Megdal.

67. In early spring 1999, La-Z-Boy's Brown contacted Paul Megdal and told Megdal that he was coming to the United States in April 1999, and that Brown would like to come to Boca Raton, Florida, to review Megdal's designs and design information.

68. Paul Megdal told Brown that he was welcome to come to Boca Raton, but that Megdal's lawyer would require a confidentiality agreement be signed. Brown agreed to sign an appropriate confidentiality agreement.

69. On April 21, 1999, Brown came to Paul Megdal's home in Boca Raton. Upon arrival, but before he was shown anything, Brown received the confidentiality agreement.

70. Brown asked to make two changes to the agreement before signing.

71. The changes were made pursuant to Brown's request.

72. After Brown's requested changes were made, Brown and Paul Megdal each signed the confidentiality agreement on April 21, 1999, outside of Paul Megdal's home. Ex. 2.

73. Immediately after Brown signed the confidentiality agreement, Paul Megdal took Brown into his garage and home, and disclosed to Brown the different prototypes that Megdal had developed to that point.

74. As he saw Paul Megdal's prototypes put into operation, Brown expressed enthusiasm for the design and potential for his market in Europe. As he watched these power systems operate, Brown excitedly uttered "brilliant" and "ingenious" repeatedly.

75. Brown immediately expressed his company's interest in licensing Paul Megdal's inventions and trade secrets.

76. Brown explained that he was certain that these designs and the design information could be used to make commercial products that would get favorable responses from his customers in Europe.

77. Brown also indicated to Paul Megdal that he would discuss these subjects with others at La-Z-Boy's corporate headquarters in Michigan, to see if the decision-makers in the United States wanted to do the same thing in the North American market.

78. La-Z-Boy was interested in discussing with Megdal Associates adapting the designs and design information into commercial embodiments that could be mass produced for all parts of the world where La-Z-Boy sold products.

79. La-Z-Boy wanted to secure the "exclusive" worldwide right to use Megdal Associates' trade secret designs and design information in those parts of the world where La-Z-Boy sold its products, in exchange for royalty payments being made and other consideration being given to Megdal Associates.

80. La-Z-Boy identified two manufacturers that might assist Megdal Associates in adapting Paul Megdal's prototype designs and design information for commercialization: (i) Dewert Antriebs und Systemtechnik, GmbH & Co. KG, a division of Phoenix Mecano AG ("Dewert"), and (ii) Leggett & Platt Incorporated of Missouri ("L&P").

81. La-Z-Boy recommended Dewert and L&P because they were experienced product manufacturers that might assist in adapting Megdal's prototype designs and design information so that they could be manufactured in quantity.

82. Before Megdal Associates negotiated any product development or manufacturing agreements with either of these two manufacturers, however, Megdal Associates required Dewert and L&P to sign confidentiality agreements.

83. Dewert and L&P both signed a confidentiality agreement with Megdal Associates. Among other things, these confidentiality agreements obligated Dewert and L&P to treat Megdal Associates' designs and design information as confidential.

84. The confidentiality agreements further required that Dewert and L&P assign to Megdal Associates all intellectual property rights in any improvements or enhancement they made.

85. The contractual obligation of Dewert and L&P to assign all improvements or enhancements to Megdal Associates was necessary because both Dewert and L&P contemplated that there would be changes to Megdal Associates' designs and design information so that they could be made in commercial quantities and so that they would perform effectively over the life of the motion furniture products on which they would be used.

86. Part of the business rationale for this arrangement was that Megdal Associates would profit by owning and controlling all intellectual property rights in the original and modified power motion furniture designs, while Dewert and L&P would profit by manufacturing the relevant components for La-Z-Boy.

87. The 2000 Megdal Associates - Dewert Confidentiality Agreement provided in pertinent part that “[Dewert] further agrees to, **and hereby does, assign to Megdal Associates** all improvements or enhancements to the Design Information or Designs first conceived by any of its officers, directors, employees or authorized agents after [Dewert's] receipt of the Design Information and Designs, where such improvements or enhancements are based on or derived from, at least in part, one or more features of the Design Information or Designs.” Ex. 3 (emphasis added).

88. The 2001 Megdal Associates – L&P Confidentiality Agreement provided in pertinent part that “[L&P] further agrees to, **and hereby does, assign to Megdal Associates** all improvements or enhancements to the Design Information first conceived by any of its officers, directors, employees or agents after [L&P's] receipt of the Design Information.” Ex. 4 (emphasis added).

89. Applicable law considers the assignment language in the two confidentiality agreements to be language of “a present assignment” of future-developed intellectual property, whether in the form of future improvements or enhancements, and any patent rights thereon.

90. The import of language of a present assignment in these two agreements is that all rights in any improvement or enhancements and inventions created by Dewert or L&P, and any patents thereon, are automatically owned solely by Megdal Associates, by operation of law. *See Preston v. Marathon Oil Co.*, 684 F.3d 1276 (Fed. Cir. 2012) (“Because the assignment clause in the April Employee Agreement stated that the employee agrees to ‘hereby assign’ all ‘Intellectual Property,’ it is an express assignment of rights in future inventions that automatically assigned rights to Marathon without the need for any additional act.”); *Bd. of Trs. of the Leland Stanford Junior Univ. v. Roche Molecular Sys.*, 583 F.3d 832, 841 (Fed. Cir. 2009) (same); *DDB Techs. v. MLB Advanced Media*, 517 F.3d 1284 (Fed. Cir. 2008) (“Applying federal law, we have held that whether an assignment of patent rights in an agreement such as the one in this case is automatic, requiring no further act on the part of the assignee, or merely a promise to assign depends on the contractual language. If the contract expressly grants rights in future inventions, ‘no further act would be required once an invention [comes] into being,’ and ‘the transfer of title [occurs] by operation of law.’ *FilmTec Corp.*, 939 F.2d 1568 at 1573 (contract provided that inventor ‘agrees to grant and does hereby grant’ all rights in future inventions); *see also Speedplay*, 211 F.3d at 1253 (contract provided that employee’s inventions within the scope of the agreement ‘shall belong exclusively to [employer] and [employee] hereby conveys, transfers, and assigns to [employer] . . . all right, title and interest in and to Inventions.’”); *Arachnid, Inc. v. Merit Indus., Inc.*, 939 F.2d 1574 (Fed. Cir. 1991) (same).

91. The use of language of a present assignment in both the Dewert and the L&P confidentiality agreements meant that that all rights in improvements or enhancements by each of these companies were transferred immediately to Megdal Associates by operation of law, without any further act being required.

**Dewert and L&P Each Worked with Megdal Associates to Adapt Megdal Associates' Powered Motion Furniture Designs for Mass Production**

92. Dewert is considered a supplier of actuators – electric motor driven devices that produce the initial force meant to actuate or start the movement of a motion furniture component.

93. Actuators generally cause movement of motion furniture components only if they are connected to the furniture and the component in question.

94. L&P is considered a supplier of under-the-seat “mechanisms.”

95. L&P’s mechanisms are, among other things, a series of collapsing and expanding metal parts that link together. One of the main functions of these mechanisms is to provide the extension and retraction system that moves the footrest in response to some form of actuation, whether manual or by power.

96. On information and belief, L&P attaches electric actuators to its mechanisms (including electric actuators manufactured by Dewert), and L&P supplies the combination to furniture manufacturers such as La-Z-Boy.

97. On information and belief, L&P, a publicly traded company, had not commercially used electrically powered actuators with its mechanisms before Paul Megdal developed his designs and design information and L&P was exposed to them.

98. Pursuant to the 2000 Megdal Associates – Dewert Confidentiality Agreement, Dewert made improvements and enhancements to Megdal Associates’ trade secret designs and design information, all of which were automatically assigned to Megdal Associates by operation of law.

99. Pursuant to the 2001 Megdal Associates – L&P Confidentiality Agreement, L&P made improvements and enhancements to Megdal Associates’ trade secret designs and design information, all of which were automatically assigned to Megdal Associates by operation of law.

100. Exhibits A and B to the 2002 Agreement between La-Z-Boy and Megdal Associates are two examples of improvements and enhancements to Megdal Associates' designs and design information that were made by Dewert, but which are owned by Megdal Associates pursuant to the 2000 Megdal Associates - Dewert Confidentiality Agreement. *See* Ex. 1.

101. On information and belief, one of the three basic designs of a power drive system used by La-Z-Boy today is supplied by L&P, but is owned by Megdal Associates pursuant to the 2001 Megdal Associates-L&P Confidentiality Agreement. *See* Ex. 4.

102. All such improvements and enhancements are presently owned solely by Megdal Associates.

**Megdal Associates and La-Z-Boy Entered Into the 2002 Agreement Concerning  
Powered Motion Furniture Designs for Mass Production**

103. After Tom Brown and others within La-Z-Boy had been given or otherwise shown some of Megdal Associates' designs and design information in confidence and trust, La-Z-Boy asked Megdal Associates to propose terms for a comprehensive agreement.

104. La-Z-Boy wanted an agreement that would allow La-Z-Boy and La-Z-Boy's Sublicensees around the world to be able to use Megdal Associates' trade secrets and inventions and related intellectual property rights regarding power motion furniture to make and sell such furniture.

105. Negotiations between Megdal Associates and La-Z-Boy lasted for well over a year.

106. La-Z-Boy sent Larry LaPointe, its long-time developer of new motion furniture products, to Boca Raton, Florida, to visit Paul Megdal's home, in order to examine Megdal Associates' designs and design information.

107. Effective January 1, 2002, La-Z-Boy and Megdal Associates entered into the 2002 Agreement. Ex. 1. A central feature of the 2002 Agreement was that Megdal Associates permitted La-Z-Boy to use Megdal Associates' different types of intellectual

property rights in exchange for La-Z-Boy paying Megdal Associates a per-unit royalty for those rights, and other consideration. Ex. 1 at Article I (Definitions), Article II (License Grant), and Article III (Royalties and Royalty Payments).

108. In exchange for being granted these conditional rights, La-Z-Boy had to “pay Megdal a royalty amount for each unit of a LICENSED PRODUCT that is sold by La-Z-Boy or a SUBLICENSEE (whether free-standing or as part of a piece of motion furniture) as set forth in Table 2 below.” Ex. 1, ¶¶ 2.00, 3.00.

109. The Agreement defined LICENSED PRODUCTS as “mean[ing] any and all products made at least in part using any or all aspects of the TRADE SECRETS AND INVENTIONS . . . .” Ex. 1, ¶ 1.02.

110. The Agreement also stated that “[w]ith regard to any patents that are and may become issued at any time to or for the benefit of Megdal related to the TRADE SECRETS AND INVENTIONS, the term “LICENSED PRODUCTS” further includes any and all products that in the absence of this license agreement would infringe at least one claim of such a patent . . . .” Ex. 1, ¶ 1.02.

111. La-Z-Boy’s obligation to pay royalties for each LICENSED PRODUCT it sold was an essential part of the *quid pro quo* of the 2002 Agreement.

112. The 2002 Agreement required La-Z-Boy to pay Megdal Associates \$9.00 per unit for annual sales of up to 50,000 Units, and \$8.00 per unit for each unit sold annually in excess of 50,000 Units. Ex. 1, § III.

113. “TRADE SECRETS AND INVENTIONS” under the Agreement comprise the original “DISCLOSURES” that Megdal Associates made under the April 21, 1999 Confidentiality Agreement (Ex. 2), “together with any improvements made to THE DISCLOSURES by Megdal [Associates], La-Z-Boy or Dewert *or any third party acting to benefit Megdal, La-Z-Boy, or Dewert*, including without limitation those set forth in paragraph 9.01 hereof . . . .” Ex. 1 at 1 (emphasis added).

114. TRADE SECRETS AND INVENTIONS also include “the product depicted in Exhibit A, or an embodiment substantially equivalent thereto, when attached directly to the drive rod inside the base of the recliner.” Ex. 1 at 1.

115. A power drive system made by L&P and currently used by La-Z-Boy, but which is owned by Megdal Associates pursuant to the 2001 Confidentiality Agreement between Megdal Associates and L&P (Ex. 4), is also an “improvement made to THE DISCLOSURES by [a] third party [L&P] acting to benefit Megdal . . .” within the meaning of the 2002 Megdal Associates-La-Z-Boy Agreement. Ex. 1 at 1.

116. The power drive system supplied by L&P to La-Z-Boy, which in turn is sold to the public by La-Z-Boy as part of the products at issue herein, falls within the definition of TRADE SECRETS AND INVENTIONS in the 2002 Agreement.

117. From the outset, La-Z-Boy recognized that the commercial products that would one day be manufactured in quantity would be adapted from—improvements or enhancements to—the prototypes that Paul Megdal originally created in his garage and home, and that Megdal Associates would own all rights in the same.

118. The parties agreed that the 2002 Agreement set forth their entire agreement. Ex. 1, § XVIII.

119. The parties agreed that the 2002 Agreement would last for 20 years, from its effective date until the end of 2021. Ex. 1, ¶ 8.00.

120. La-Z-Boy and Megdal Associates further agreed that the term of the 2002 Agreement could even extend past 20 years if “a patent covering the LICENSED PRODUCTS then being sold by La-Z-Boy and any SUBLICENSEE [are] still in force, whereupon La-Z-Boy shall be obligated to pay royalties under Section III as if those terms were still in effect until the expiration of any such patents.” Ex. 1, ¶ 8.00.

121. The parties agreed that Megdal had an unconditional right to “inspect all [records of all operations affecting royalty payments hereunder]” “not more than once per year.” Ex. 1, ¶ 5.00.



122. La-Z-Boy agreed to “keep accurate records of all operations affecting royalty payments hereunder” throughout the term of the Agreement, and for three years after its termination, to allow Megdal Associates to check whether La-Z-Boy was accurate in its royalty payments. Ex. 1, ¶ 5.00.

123. In the event that an inspection pursuant to paragraph 5 of the 2002 Agreement revealed that royalty payments were deficient, then La-Z-Boy was required to make all past due royalty payments immediately and pay interest on these late royalty payments. Ex. 1, ¶ 5.00.

124. La-Z-Boy has to “further reimburse Megdal for all costs and expenses reasonably related to identifying and rectifying the deficiency, including without limitation all expenses of the inspection” if the deficiency in royalty payments exceeds 10% of the amount due and owing. Ex. 1, ¶ 5.00.

125. Contractual audit rights and penalties for underpaying license fees are common features of intellectual property agreements.

**La-Z-Boy Pays Megdal Associates Royalties for Selling  
Licensed Products that Comprise Powered Motion Furniture**

126. Starting in 2002, La-Z-Boy began making quarterly royalty payments to Megdal Associates under the 2002 Agreement.

127. La-Z-Boy’s initial payments covered periods of time prior to the effective date of the Agreement, because the parties agreed that La-Z-Boy had started selling LICENSED PRODUCTS before the parties completed and signed the Agreement.

128. Under paragraph 3.02 of the 2002 Agreement, La-Z-Boy is required to “[to] furnish to Megdal a written statement in such detail as Megdal may reasonably require of all amounts due pursuant to Paragraph 3.00 herein for the quarterly royalty periods . . .” with its royalty payments.

129. With its quarterly royalty payments, La-Z-Boy generally provided a report representing how many units of LICENSED PRODUCT were sold that quarter, and which of La-Z-Boy's operations around the world made the sales.

130. La-Z-Boy has never provided royalty reports to Megdal Associates that had a sufficient degree of detail to show which specific power motion furniture products La-Z-Boy deemed to be royalty-bearing, or whether La-Z-Boy was selling any power motion furniture products that it considered to not be royalty-bearing.

131. Royalty payments to Megdal Associates started somewhat slowly, as La-Z-Boy, on Megdal Associates' information and belief at that time, only offered about 4 to 6 styles of power motion furniture products for sale at the outset of the 2002 Agreement.

132. To Megdal Associates' knowledge during the timeframe between 2002 and about 2010, La-Z-Boy offered between about 4 to 10 styles or models of power motion furniture between 2002 and about 2010.

133. According to La-Z-Boy's reports, royalty payments to Megdal Associates picked up after the first couple of years.

134. Between 2002 and 2010, La-Z-Boy paid Megdal Associates a total of nearly \$400,000 in royalties.

135. In 2005, three years after licensing his first inventions, Paul Megdal died at the age of 88.

136. According to La-Z-Boy, sales of LICENSED PRODUCTS began slowing down just after Paul Megdal died, in or around 2006.

137. After Paul Megdal's death, the annual amount of royalties paid by La-Z-Boy to Megdal Associates declined most years. In the last couple of years, La-Z-Boy's royalty payments to Megdal Associates became *de minimis*.

138. Megdal Associates understood La-Z-Boy's *de minimis* royalty payments to mean that La-Z-Boy had withdrawn its commitment to power motion furniture as a viable market segment.

139. In 2013, Megdal Associates attempted to confirm whether its understanding that La-Z-Boy had abandoned the power motion furniture market was accurate.

140. Much to its surprise, Megdal Associates discovered in early March 2013 that La-Z-Boy had not abandoned the market for power motion furniture.

141. Instead, Megdal Associates learned in early March 2013 that La-Z-Boy had introduced to the market an expanded lineup of power motion furniture products.

142. Specifically, La-Z-Boy has sold Power Motion Furniture Products with a Power 10 mechanism and a Power 440 mechanism, as well as La-Z-Boy's new P16 products, for which La-Z-Boy has not paid royalties to Megdal Associates in violation of the 2002 Agreement. This group of products is referred to hereafter as Power Motion Furniture Products. The Power Motion Furniture Products are Licensed Products within the meaning of paragraph 1.02 of the 2002 Agreement.

143. To Megdal Associates' knowledge, of the Power Motion Furniture Products that have been sold by La-Z-Boy in the past couple of years, the majority, if not all, have used drive system components supplied by (a) L&P and Dewert in combination (collectively "the L&P Designs") and/or (b) TiMOTION Technology Co. Ltd. ("TiMOTION"), a Taiwanese company ("the TiMOTION Design").

**La-Z-Boy Does Not Pay Megdal Associates Royalties for  
Selling Licensed Products that Comprise Powered Motion Furniture**

144. The Power Motion Furniture Products are products made at least in part using any or all aspects of Megdal Associates' Trade Secrets and Inventions under the 2002 Agreement.

145. La-Z-Boy was obligated to pay Megdal Associates royalties for sales of Power Motion Furniture Products, but La-Z-Boy has refused to do so.

146. On April 24, 2013, after discovering that La-Z-Boy had substantially expanded its participation in the power motion furniture market, Megdal Associates' counsel sent an

email to La-Z-Boy's counsel questioning why Megdal Associates was not receiving commensurate royalty payments.

147. In its April 24, 2013 email, Megdal Associates also requested a full audit of La-Z-Boy's books and records in accordance with its right to do so under paragraph 5 of the Agreement.

148. La-Z-Boy took nearly two months to respond to Megdal Associates' email of April 24, 2013.

149. La-Z-Boy's counsel sent a June 14, 2013 email response, contending that the 2002 Agreement did not cover the Power Motion Furniture Products. The June 14, 2013 email did not address Megdal Associates' request for an audit.

150. From March 2013 to August 2013, La-Z-Boy never allowed an audit.

151. Eventually, after Megdal Associates' counsel made repeated demands for an audit, in August 2013, La-Z-Boy agreed to allow Megdal Associates' counsel to come to the offices of La-Z-Boy's counsel in late September 2013.

152. However, La-Z-Boy would not allow Megdal Associates to conduct the full audit requested by Megdal Associates.

153. Instead, La-Z-Boy only permitted Megdal Associates to review 427 pages of records selected by La-Z-Boy or its counsel, and three pieces of furniture that La-Z-Boy represented were representative of the three designs used in all of its power motion furniture products.

154. The 427 pages of records selected by La-Z-Boy or its counsel and shown to Megdal Associates' counsel in September 2013 were not all "records of all operations affecting royalty payments" within the meaning of the 2002 Agreement that then existed. *See* Ex. 1, ¶ 5.00.

155. For example, in connection with the audit, La-Z-Boy refused to produce any sales records for the Power Motion Furniture Products at issue in this case. La-Z-Boy also

refused to produce all design and product development records for the Power Motion Furniture Products.

156. La-Z-Boy's sales of the Power Motion Furniture Products during this last two-plus year period have been substantial.

157. La-Z-Boy's CEO, Kurt Darrow, believes that selling 50% of its motion furniture products with power is presently within La-Z-Boy's reach.

158. La-Z-Boy's sales of the Power Motion Furniture Products over the past couple of years have been one of the fastest growing segments of the company during that period. La-Z-Boy continues to expand its Power Motion Furniture Products.

159. La-Z-Boy's CEO, Kurt Darrow, anticipates that power motion furniture will be like power windows in cars; in the future customers will not be able to find reclining furniture without power.

160. La-Z-Boy has reaped the financial benefit from the valuable power motion furniture business segment by infringing and misappropriating Megdal Associates' intellectual property rights and breaching its contract rights.

161. Megdal Associates disclosed TRADE SECRETS AND INVENTIONS to La-Z-Boy under contractual terms limiting La-Z-Boy's right to use them. Ex. 1, ¶ 6.01.

162. The manufacture of LICENSED PRODUCT under the 2002 Agreement is one for which payment must be made by La-Z-Boy (Ex. 1, ¶ 3.00) and which involves "any and all products made at least in part using any or all aspects of the TRADE SECRETS AND INVENTIONS, whether patented or not." Ex. 1, ¶ 1.02.

163. La-Z-Boy has no right, permission, or authority under the 2002 Agreement to make, use, or sell Megdal Associates' LICENSED PRODUCTS without paying Megdal Associates a royalty for each sale.

164. The 2002 Agreement between Megdal Associates and La-Z-Boy includes depictions of two particular designs of the TRADE SECRETS AND INVENTIONS, as Exhibits A and B thereto.

165. Exhibit A to the 2002 Agreement depicts a powered drive design that was sold commercially by La-Z-Boy starting in or around 2001.

166. Since 2002 La-Z-Boy has paid Megdal Associates for the right to use Megdal Associates' intellectual property shown in Exhibit A to the 2002 Agreement.

167. Exhibit B to the 2002 Agreement shows a different drive design than the design shown in Exhibit A.<sup>2</sup>

168. To this day, Megdal Associates has not publicly disclosed Exhibit B to the 2002 Agreement, but instead has maintained it as a trade secret. To this day, Megdal Associates has not publically disclosed additional trade secret designs, prototypes, and design information related to power motion furniture that were disclosed to La-Z-Boy.

169. La-Z-Boy has agreed that the power motion furniture design shown in Exhibit B to the 2002 Agreement is a trade secret owned by Megdal Associates.

170. La-Z-Boy was not authorized to use the design shown in Exhibit B for any purpose "other than in the manufacture of LICENSED PRODUCTS." La-Z-Boy was not and is not authorized to disclose Exhibit B to any third party.

171. La-Z-Boy was not authorized to sell products "made at least in part using any or all aspects of" Exhibit B unless La-Z-Boy paid Megdal Associates for the right to do so under the 2002 Agreement.

172. With regard to Megdal Associates' designs and design information other than that depicted in Exhibit A to the 2002 Agreement, including but not limited to the specific trade secret shown in Exhibit B, La-Z-Boy has not paid Megdal Associates any royalties for any products that use said trade secrets.

173. Megdal Associates has not consented to La-Z-Boy using its TRADE SECRETS AND INVENTIONS without paying for that right.

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<sup>2</sup> Megdal Associates does not include the Exhibit B that is part of the 2002 Agreement with this publicly filed document because Exhibit B comprises a Megdal Associates trade secret. Nonetheless, reference to Exhibit B of the 2002 Agreement provides notice to La-Z-Boy for purposes of this Complaint because La-Z-Boy has a copy of Exhibit B.

174. Because Exhibit B has remained a trade secret owned by Megdal Associates, La-Z-Boy has remained subject to the secrecy and non-use obligations of the 2002 Agreement with respect to that information. *See* Ex. 1, ¶ 6.01.

175. Megdal Associates' efforts to maintain the secrecy of all of its trade secret designs and design information, including without limitation Exhibit B to the 2002 Agreement, have been reasonable under the circumstances.

176. On information and belief, La-Z-Boy, alone or in conjunction with others, has used the trade secret design shown in Exhibit B to the 2002 Agreement in developing and/or selling power motion products that employ the TiMOTION Design.

177. La-Z-Boy had access to Exhibit B to the 2002 Agreement in that it had a copy of Exhibit B.

178. The TiMOTION Design is substantially similar to the design set forth on at least Exhibit B.

179. La-Z-Boy has not paid Megdal Associates anything for La-Z-Boy's sales of power motion furniture that use the TiMOTION Design.

180. On information and belief, La-Z-Boy recently started making its own under-the-seat mechanisms. On information and belief, La-Z-Boy elected to use the TiMOTION actuators with its own mechanisms.

181. On information and belief, La-Z-Boy adds some mechanical connection parts to the TiMOTION actuators to operatively secure the actuator to a drive rod, where such parts are very similar in design and function to some of Megdal Associates' TRADE SECRETS AND INVENTIONS provided to La-Z-Boy under the 2002 Agreement.

182. On information and belief, La-Z-Boy adds some of its own mechanical connection parts to the actuators used on many of its Power Motion Furniture Products now being sold. By using Megdal Associates' trade secrets without paying for the right to do so, even after demands over the past year by Megdal Associates to the contrary, La-Z-Boy is in breach of the parties' 2002 Agreement.

183. La-Z-Boy's conduct in this regard exhibits a reckless indifference to the rights of Megdal Associates and/or a specific intent to harm Megdal Associates.

184. La-Z-Boy's reasons for not paying Megdal Associates under the 2002 Agreement for sales of the Power Motion Furniture Products, as stated in 2013 correspondence between La-Z-Boy's counsel and Megdal Associates' counsel, were objectively baseless and made in bad faith.

185. La-Z-Boy's Power Motion Furniture Products that have been sold and are being sold with the L&P Designs and the TiMOTION Design include or comprise TRADE SECRETS AND INVENTIONS as defined by the 2002 Agreement, and/or use TRADE SECRETS AND INVENTIONS.

186. La-Z-Boy's Power Motion Furniture Products that have been sold and are being sold with the L&P Designs and the TiMOTION Design fit within the definition of LICENSED PRODUCTS under the 2002 Agreement.

187. On April 24, 2013, counsel for Megdal Associates sent La-Z-Boy's counsel an email, which explained that La-Z-Boy had not paid royalties for all licensed products as required by the 2002 Agreement, and requested a full audit under paragraph 5 of the 2002 Agreement.

188. On April 23, 2014, counsel for Megdal Associates sent La-Z-Boy a letter, again requesting a full audit under paragraph 5 of the Agreement. Ex. 5.

189. Counsel for Megdal Associates sent a follow up letter on April 28, 2014 with a list of La-Z-Boy products for inclusion in the audit. Megdal Associates has not requested any other audit of La-Z-Boy in calendar year 2014.

190. On May 30, 2014, outside counsel for La-Z-Boy, attorney Paul Keller, sent counsel for Megdal Associates a letter rejecting the request for an audit of the scope outlined in the April 23 and 28, 2014 letters from counsel for Megdal Associates.

191. Instead, the May 30, 2014 Keller letter offered counsel for Megdal Associates the chance to review the same limited and insufficient scope of documents that La-Z-Boy



permitted Megdal Associates to review in response to Megdal Associates' initial audit request of April 2013.

192. In its counsel's May 30, 2014 letter, La-Z-Boy again refused to allow a review of any sales records related to the Power Motion Furniture Products at issue and which were enumerated by counsel for Megdal Associates in the April 28, 2014 letter.

193. La-Z-Boy did not provide a timely royalty report or any royalty payment to Megdal for the fourth quarter of 2013 and the first quarter of 2014 in breach of its duty to do so under paragraph 3.02 of the 2002 Agreement.

194. At no time after Megdal Associates specified the basis for La-Z-Boy's failure to perform and pay royalties under the 2002 Agreement has La-Z-Boy cured or remedied its failure to perform its obligations under the 2002 Agreement.

**Count I**  
**(Breach of Contract)**

195. Megdal Associates repeats and reasserts all allegations contained in Paragraphs 2 through 11, and 20 through 194 above as if they were stated in full herein.

196. Megdal Associates and La-Z-Boy entered into a contract when they executed the 2002 Agreement.

197. Megdal Associates has performed all material obligations precedent to it bringing this breach of contract claim under the 2002 Agreement.

198. La-Z-Boy has materially breached its obligations under the 2002 Agreement. La-Z-Boy has failed and refused to perform all of its obligations under the 2002 Agreement, including, but not necessarily limited to, its (a) underpayment of and failure to pay royalties due to Megdal Associates under the 2002 Agreement; (b) failure to allow Megdal Associates to conduct the full scope of appropriately requested audits of La-Z-Boy records; (c) failure to furnish royalty reports as required by paragraph 3.02 of the 2002 Agreement; and (d) failure to cooperate with Megdal Associates as required by Article 14 of the 2002 Agreement.

199. La-Z-Boy's failures to perform in these regards each constitute a separate material breach of the 2002 Agreement that damaged Megdal Associates and otherwise caused it harm.

200. La-Z-Boy has failed to cure its material breaches of the 2002 Agreement, even after Megdal Associates notified La-Z-Boy of its material breaches.

201. Megdal Associates has sustained damages as a result of these breaches in an amount to be determined at trial.

### **Jury Demand**

Megdal Associates demands a trial by jury on all issues so triable.

### **Request for Relief**

Megdal Associates requests the following relief:

1. Entry of judgment in favor of Megdal Associates and against La-Z-Boy on Count I in this Complaint, in an amount to be determined at trial, but at least in an amount that exceeds the jurisdictional limits of this Court;
2. An award of damages for La-Z-Boy's breach of the 2002 Agreement;
3. To the extent that La-Z-Boy has underpaid Megdal Associates for royalties due and owing under the 2002 Agreement, and has done so by 10% or more of the actual royalties due and owing, an award of prejudgment interest at the rate of 8% per annum, pursuant to paragraph 5.00 of the 2002 Agreement, as well as "all costs and expenses reasonably related to identifying and rectifying the deficiency," as set forth in paragraph 5.00 of the Agreement;
4. An accounting of damages owed by La-Z-Boy for the period of breach from the date proven at trial through the date of trial;
5. An award of costs, expenses, and disbursements; and
6. Such other and further relief as is just and proper.

Dated: October 14, 2015

Respectfully submitted,

By: /s/ Patrick Arenz

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**Certificate of Service**

I hereby certify that on October 14, 2015, I served the foregoing document and its attachments on the following persons via ECF:

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Dated: October 14, 2015

**ROBINS KAPLAN LLP**

By: /s/ Michael Kolcun