

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION
Case No. 1:16-cv-63**

BLUE RHINO GLOBAL SOURCING,)
INC.,)

Plaintiff,)

v.)

GUANGDONG CHANT GROUP CO. LTD.)

Defendant.)
_____)

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff BLUE RHINO GLOBAL SOURCING, INC. (“BRGS” or “Plaintiff”) hereby files this Complaint for Patent Infringement against Defendant GUANGDONG CHANT GROUP CO. LTD. (“Chant” or “Defendant”), showing the Court as follows:

1. BRGS is a corporation formed under the laws of the State of Delaware, having a place of business at 5650 University Parkway, Suite 400, Winston-Salem, North Carolina 27105.

2. Defendant, on information and belief, is a corporation formed under the laws of the People’s Republic of China, having a principal place of business at No. 42, Xiaolin Industrial Road South, Zhongshan, Guangdong 528415, China.

3. This is an action for federal patent infringement pursuant to 35 U.S.C. § 1 *et seq.* This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), and venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

4. On information and belief, Defendant is conducting business by servicing its product market, either directly or indirectly, in the State of North Carolina and this judicial district. Additionally, on information and belief, Defendant has knowingly sent infringing heaters to purchasers in this State and district. Further, on information and belief, Defendant is placing infringing heaters into the stream of commerce with knowledge, or reasonable foreseeability, that a termination point of the stream is the State of North Carolina and this judicial district. Moreover, on information and belief, Defendant knows or should know that its unlawful conduct will cause harm to Plaintiff in this State and district.

5. BRGS is the owner, by assignment, of all right, title, and interest in and to United States Patent No. 6,651,647 (“the ‘647 patent”) entitled “Heating Apparatus with Slidable Shroud.” A true and correct copy of the ‘647 patent is attached hereto as Exhibit A.

6. The ‘647 patent was duly and lawfully issued by the United States Patent and Trademark Office on November 25, 2003. The ‘647 patent and all of its claims are presumed valid pursuant to 35 U.S.C. § 282.

7. BRGS is also the owner, by assignment, of all right, title, and interest in and to United States Patent No. 6,470,877 (“the ‘877 patent”) entitled “Heating Apparatus”. A true and correct copy of the ‘877 patent is attached hereto as Exhibit B.

8. The ‘877 patent was duly and lawfully issued by the United States Patent and Trademark Office on October 29, 2002. The ‘877 patent and all of its claims are presumed valid pursuant to 35 U.S.C. § 282.

9. BRGS is in the business of marketing and selling outdoor heaters, among other products. On information and belief, products sold under the ‘647 patent and/or the ‘877 patent by BRGS have been properly marked pursuant to 35 U.S.C. § 287.

10. Defendant is engaged in the business of making, importing, marketing and selling outdoor heaters.

11. Defendant has been offering for sale and selling, and presently is offering for sale and selling, through established streams of commerce throughout the United States, including to customers and potential customers in this State and judicial district, outdoor heaters that infringe one or more claims of the ‘647 patent and/or one or more claims of the ‘877 patent.

12. On information and belief, Defendant has offered for sale and sold a heating apparatus, comprising a burner assembly for igniting fuel from a fuel source; an upper housing for the burner assembly with the housing having a central longitudinal axis extending therethrough; an elongate support member extending upwardly along the longitudinal axis to the burner assembly housing to space the housing from ground level; and a shroud spaced from said burner assembly by said elongate support member,

configured for slidably engaging said elongate support member and dimensioned for surrounding the fuel source.

13. On information and belief, Defendant has offered for sale and sold a heating apparatus provided in disassembled format, comprising a burner assembly for igniting fuel from a fuel source; an upper housing for the burner assembly; an elongate support member for spacing the housing from ground level; a base and at least three legs configured for suspending said elongate support member from said base and for defining a space for the fuel source; a shroud for enclosing a space defined by said at least three legs; a dome mountable above said burner assembly; and a single container configured for enclosing said burner assembly, said upper housing, said elongate support member, said base, said at least three legs, said shroud and said dome.

14. On information and belief, Defendant has offered for sale and sold a heating apparatus for igniting fuel from a fuel tank having a control valve for controlling a supply of fuel from the tank comprising a heat emitter including a burner assembly for igniting fuel from the fuel tank to provide heat emanating from the emitter; an elongate support member mounting the heat emitter at an upper end thereof and including a gas line extending therethrough for feeding fuel from the tank to the burner assembly for ignition; and a shroud for fitting over the fuel tank, being slidably engaged on said elongate support member for reciprocal vertical movement and including an access opening at a predetermined location on the shroud with the opening being sized to expose a portion of said fuel tank and allow an operator access to the fuel tank control

valve for controlling supply of fuel to the burner assembly without sliding said shroud relative to said support.

15. On information and belief, Defendant has offered for sale and sold a heating apparatus for igniting fuel from a fuel tank having a control valve for controlling a supply of fuel from the tank comprising, a heat emitter including a burner assembly for igniting fuel from the fuel tank to provide heat emanating from the emitter; an elongate support member mounting the heat emitter at an upper end thereof and including a gas line extending therethrough for feeding fuel from the tank to the burner assembly for ignition; said elongate support member is supported upon a base by a plurality of legs, said legs define a space for receiving the fuel tank; and a shroud for fitting over the fuel tank and including an access opening at a predetermined location on the shroud with the opening being sized to allow an operator access to the fuel tank control valve for controlling supply of fuel to the burner assembly, and said shroud configured for surrounding said legs and the tank, and engaging said base.

16. On information and belief, Defendant has violated Plaintiff's patent rights through its activities with at least Defendant's heaters bearing model number MS4510600302 and/or PG181H.

17. A true and correct copy of an excerpt from the product manual provided by Defendant with heaters bearing model number MS4510600302 is attached hereto as Exhibit C. As depicted in the product manual, the infringing heaters exhibit all of the features of at least claim 1 of the '647 patent and claims 1 and 10 of the '877 patent.

18. On information and belief, the photograph attached hereto as Exhibit D depicts the normal packaging in which Defendant sells the infringing heater. As shown in Exhibit D, the packaging comprises a single carton, in which the infringing heaters are provided in dissembled format and exhibit all of the features of at least claim 13 of the '647 patent.

19. Defendant has committed the acts of infringement complained of herein without the consent or authorization of Plaintiff and in derogation of 35 U.S.C. § 271. On information and belief, Defendant's acts of infringement will continue unabated unless and until enjoined by this Court.

20. Defendant has harmed Plaintiff by virtue of Defendant's acts of infringing the '647 patent and/or the '877 patent.

21. Plaintiff is entitled to damages from Defendant pursuant to 35 U.S.C. § 284 and injunctive relief from this Court pursuant to 35 U.S.C. § 283.

WHEREFORE, Plaintiff prays for the entry of a judgment:

1. Holding that Defendant has infringed the '647 patent;
2. Holding that Defendant has infringed the '877 patent;
3. Awarding Plaintiff damages adequate to compensate for all such unauthorized acts of infringement pursuant to 35 U.S.C. § 284;
4. To the extent applicable, declaring this case as exceptional pursuant to 35 U.S.C. § 285;
5. Awarding Plaintiff its attorneys' fees and other costs and expenses;
6. Awarding Plaintiff interest to the extent permitted by law;

7. Permanently enjoining Defendant from any further acts of infringement;
and
8. Awarding such other and further relief as this Court may deem just and proper.

Plaintiff demands a trial by jury on all issues so triable.

Date: January 26, 2016

Respectfully submitted,

/s/ J. Mark Wilson

J. Mark Wilson

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