

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

Ergonomic Ingenuity LLC,

Plaintiff,

v.

Case No. 16-CV-681

JURY TRIAL DEMANDED

Texstar Group LLC and
Harvest Direct LLC,

Defendants.

COMPLAINT

Ergonomic Ingenuity LLC (“Ergonomic Ingenuity”) by and through its undersigned attorneys Hansen Reynolds Dickinson Crueger LLC, hereby files this complaint for patent infringement against Texstar Group LLC (“Texstar Group”) and Harvest Direct LLC (“Harvest Direct”) and alleges as follows:

THE PARTIES

1. Ergonomic Ingenuity is a corporation organized under the laws of the State of Wisconsin having its principal place of business located at 117 Hill Street, Hartland, Wisconsin 53209. Ergonomic Ingenuity owns patent rights related to cushioned user interface devices and is currently involved in developing and marketing a cushion product for user interface devices.

2. Upon information and belief, Harvest Direct is a corporation organized under the laws of the State of Massachusetts having its principal place of business at 61 Accord Park Drive Norwell, MA 02061.

3. Upon information and belief, Texstar Group is a corporation organized under the laws of the State of Wisconsin having its principal place of business at 1327 Bedford Lane, Appleton, WI 54915.

JURISDICTION AND VENUE

4. This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*

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

6. This Court has personal jurisdiction over Texstar Group for at least the reasons that its principal place of business is within the State of Wisconsin and this district, and that it has committed acts of patent infringement within the State of Wisconsin. Texstar Group controls the U.S. sales of the infringing GoGo Pillow product being sold by Harvest Direct.

7. This Court has personal jurisdiction over Harvest Direct for at least the reasons that Harvest Direct has upon information and belief done, and continues to do, substantial business in this district and has committed acts of patent infringement by selling the infringing GoGo Pillow product within the State of Wisconsin.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(a), 1391(b), 1391(c) and 1400(b) for at least the reasons that Defendants have committed acts within this judicial district giving rise to this action and do business in this district, including sales, offers for sale, and providing service and/or support to its customers in this district.

COUNT I

Patent Infringement of United States Patent No. 8,519,946

9. Paragraphs 1 through 8 are incorporated by reference as if fully set forth herein.

10. United States Patent No. 8,519,946 (the '946 Patent) is titled "Cushioned user interface or control device." The '946 Patent issued on August 27, 2013, and a true and correct copy of the '946 Patent is attached as Exhibit A.

11. Ergonomic Ingenuity is the lawful assignee of the entire right, title and interest in and to the '946 Patent and possesses all rights of recovery under the patent including the right to recover damages for past infringement.

12. Upon information and belief, Defendants have been and are now making, using, selling, and offering for sale within the United States a product under the name "GoGo Pillow" that infringes at least claim 1 of the '946 Patent, literally and/or under the doctrine of equivalents.

13. Upon information and belief, Defendants have knowingly violated 35 U.S.C. § 271(b) and (c), and has had specific intent to induce or contribute to the infringement of the '946 Patent by, *inter alia*, marketing, selling, supporting sales, and/or distributing a product under the name "GoGo Pillow." Defendants' customers directly infringe the '946 Patent by, *inter alia*, using Defendants' product to infringe at least claim 1 of the '946 Patent.

14. Ergonomic Ingenuity intends to make and sell a product in the United States that competes with Defendants' infringing product, and thus it will have no adequate remedy at law against Defendants' acts of infringement and will suffer irreparable harm unless Defendants are permanently enjoined from their infringement of the '946 Patent.

15. Upon information and belief, Defendants' infringement has been willful, deliberate, and with knowledge of Ergonomic Ingenuity's rights in the '946 Patent. Indeed, Ergonomic Ingenuity provided Harvest Direct and Texstar Group notice of '946 patent on or about April 7, 2014.

16. Defendants, by way of their infringing activity, have caused and continue to cause Ergonomic Ingenuity to suffer damages in an amount to be determined at trial.

COUNT II

Patent Infringement of United States Patent No. 8,786,545

17. Paragraphs 1 through 15 are incorporated by reference as if fully set forth herein.

18. United States Patent No. 8,786,545 (the '545 Patent) is titled "Cushioned user interface or control device." The '545 Patent issued on July 22, 2014, and a true and correct copy of the '545

Patent is attached as Exhibit B.

19. Ergonomic Ingenuity is the lawful assignee of the entire right, title and interest in and to the '545 Patent and possesses all rights of recovery under the patent including the right to recover damages for past infringement.

20. Upon information and belief, Defendants have been and are now making, using, selling, and offering for sale within the United States a product under the name "GoGo Pillow" that infringes at least claim 8 of the '545 Patent, literally and/or under the doctrine of equivalents.

21. Upon information and belief, Defendants have knowingly violated 35 U.S.C. § 271(b) and (c), and has had specific intent to induce or contribute to the infringement of the '545 Patent by, *inter alia*, marketing, selling, supporting sales, and/or distributing a product under the name "GoGo Pillow." Defendants' customers directly infringe the '545 Patent by, *inter alia*, using Defendants' product to infringe at least claim 8 of the '545 Patent.

22. Ergonomic Ingenuity intends to make and sell a product in the United States that competes with Defendants' infringing product, and thus it will have no adequate remedy at law against Defendants' acts of infringement and will suffer irreparable harm unless Defendants are permanently enjoined from their infringement of the '545 Patent.

23. Upon information and belief, Defendants' infringement has been willful, deliberate, and with knowledge of Ergonomic Ingenuity's rights in the '545 Patent. Indeed, Ergonomic Ingenuity provided Harvest Direct and Texstar Group notice of '545 patent on or about July 23, 2014.

24. Defendants, by way of their infringing activity, have caused and continue to cause Ergonomic Ingenuity to suffer damages in an amount to be determined at trial.

PRAYER FOR RELIEF

Wherefore, Ergonomic Ingenuity prays for judgment against Defendants Texstar Group and Harvest Direct granting the following relief:

A. That this Court adjudge and decree that Defendants have infringed and continue to infringe one or more claims of the '946 Patent;

B. That this Court adjudge and decree that Defendants have infringed and continue to infringe one or more claims of the '545 Patent;

C. That this Court grant injunctions enjoining the aforesaid acts of infringement by Defendants, their officers, agents, servants, employees, subsidiaries and attorneys, and those acting in concert with them, including related individuals and entities, customers, representatives, OEMs, dealers, and distributors;

D. That this Court enter an award to Ergonomic Ingenuity of such damages as it shall prove at trial against Defendants that are adequate to compensate Ergonomic Ingenuity for said infringement as permitted under the Patent Act;

E. That this Court order an award to Ergonomic Ingenuity of up to three times the amount of compensatory damages because of Defendants' willful infringement of the '946 and '545 (yes, this is ok) Patents and any enhanced damages as provided by 35 U.S.C. § 284;

F. That this Court render a finding that this case is "exceptional" and award Ergonomic Ingenuity its costs and reasonable attorneys' fees, as provided by 35 U.S.C. § 285.

G. That this Court award Ergonomic Ingenuity pre-judgment and post-judgment interests on damages; and

H. That this Court grant to Ergonomic Ingenuity such other, further, and different relief as may be just and proper.

JURY TRIAL DEMAND

Ergonomic Ingenuity respectfully demands a trial by jury of any and all issues triable of right before a jury pursuant to Fed. R. Civ. P. 38.

Dated June 8, 2016

Hansen Reynolds Dickinson Crueger LLC

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