

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**TRAXXAS, L.P.,**

*Plaintiff,*

**v.**

**THE FIRELANDS GROUP, LLC,**

*Defendant.*

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**Civil Action No. 2:16-cv-736**

**JURY TRIAL DEMANDED**

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**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

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COMES NOW Plaintiff Traxxas, L.P. (“Traxxas”) and files this Original Complaint for Patent Infringement against Defendant The Firelands Group, LLC (“Firelands”), alleging as follows:

**I. NATURE OF THE SUIT**

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

**II. THE PARTIES**

2. Plaintiff **Traxxas, L.P.** is a Texas limited partnership that maintains its principal place of business in McKinney, Texas.

3. Defendant **The Firelands Group, LLC** is an Illinois limited liability company that does business in Texas, directly or through intermediaries, and maintains its principal place of business in Champaign, Illinois.

### **III. JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. Thus, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has specific personal jurisdiction over Firelands pursuant to due process and the Texas Long Arm Statute because Firelands, directly or through intermediaries, has conducted and does conduct substantial business in this forum, such substantial business including but not limited to: (i) at least a portion of the infringements alleged herein; (ii) purposefully and voluntarily placing one or more infringing products or services into the stream of commerce with the expectation that they will be purchased by consumers in this forum; or (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

6. Venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) for the reasons set forth above. Furthermore, venue is proper because Firelands, directly or through intermediaries, sells and offers to sell infringing products to persons in this District, as discussed below. Each of Firelands's infringing acts in this District gives rise to proper venue.

### **IV. BACKGROUND**

#### **A. The Asserted Patents**

7. This cause of action asserts infringement of United States Patent Nos. 8,315,040 B2; 8,982,541 B1; 9,061,763 B1; and 9,221,539 B2 (collectively, the "Asserted Patents").

8. A true and correct copy of United States Patent No. 8,315,040 B2 (the “’040 Patent”), entitled “Protective Enclosure for Model Vehicle,” is attached hereto as Exhibit A.

9. Traxxas is the current owner by assignment of all rights, title, and interest in and under the ’040 Patent, which duly and legally issued on November 20, 2012, with Timothy E. Roberts, Jon Kenneth Lampert, and Otto Karl Allmendinger as the named inventors. Traxxas has standing to sue for infringement of the ’040 Patent.

10. A true and correct copy of United States Patent No. 8,982,541 B1 (the “’541 Patent”), entitled “Protective Enclosure for Model Vehicle,” is attached hereto as Exhibit B.

11. Traxxas is the current owner by assignment of all rights, title, and interest in and under the ’541 Patent, which duly and legally issued on March 17, 2015, with Timothy E. Roberts, Jon Kenneth Lampert, and Otto Karl Allmendinger as the named inventors. Traxxas has standing to sue for infringement of the ’541 Patent.

12. A true and correct copy of United States Patent No. 9,061,763 B1 (the “’763 Patent”), entitled “Rotorcraft With Integrated Light Pipe Support Members,” is attached hereto as Exhibit C.

13. Traxxas is the current owner by assignment of all rights, title, and interest in and under the ’763 Patent, which duly and legally issued on June 23, 2015, with Casey Christen Jens Christensen, Otto Karl Allmendinger, Richard Douglas Hohnholt, Kent Poteet, Scott Rollin Michael Schmitz, and Thomas Blackwell as the named inventors. Traxxas has standing to sue for infringement of the ’763 Patent.

14. A true and correct copy of United States Patent No. 9,221,539 B2 (the “’539 Patent”), entitled “Rotorcraft With Integrated Light Pipe Support Members,” is attached hereto as Exhibit D.

15. Traxxas is the current owner by assignment of all rights, title, and interest in and under the '539 Patent, which duly and legally issued on December 29, 2015, with Casey Christen Jens Christensen, Otto Karl Allmendinger, Richard Douglas Hohnholt, Kent Poteet, Scott Rollin Michael Schmitz, and Thomas Blackwell as the named inventors. Traxxas has standing to sue for infringement of the '539 Patent.

**B. Firelands**

16. Firelands, directly or through intermediaries, makes, uses, sells, or offers to sell within the United States, or imports into the United States, remotely controllable model vehicles (the "Criterion/Volition Accused Products"), including the Helion Criterion, Helion Volition 10SC, and Helion Volition XLR.

17. Firelands, directly or through intermediaries, makes, uses, sells, or offers to sell within the United States, or imports into the United States, remotely controllable model vehicles (the "Dominus Accused Products"), including the Helion Dominus 10SC and Helion Dominus 10TR.

18. Firelands, directly or through intermediaries, makes, uses, sells, or offers to sell within the United States, or imports into the United States, remotely controllable quadcopters (the "Ares Accused Products"), including the Ares Shadow 240.

19. The Criterion/Volition Accused Products, the Dominus Accused Products, and the Ares Accused Products are sold or offered for sale in this District via distributors such as HobbyTown.

20. The Criterion/Volition Accused Products and the Dominus Accused Products are sold or offered for sale in this District via the Internet websites [helion-rc.com](http://helion-rc.com) and [www.firelandsgroup.com](http://www.firelandsgroup.com).

21. The Ares Accused Products are sold or offered for sale in this District via the Internet websites ares-rc.com and www.firelandsgroup.com.

22. By selling and/or offering to sell the Criterion/Volition Accused Products, the Dominus Accused Products, and the Ares Accused Products in this District, Firelands, directly or through intermediaries, purposefully and voluntarily places the Criterion/Volition Accused Products, the Dominus Accused Products, and the Ares Accused Products into the stream of commerce with the expectation that they will be purchased by consumers in this District.

## **V. CLAIMS**

23. Based on the above-described products, Traxxas asserts several causes of action against Firelands. These causes of action are detailed as follows.

### **A. Infringement of the '040 Patent**

24. The allegations of paragraphs 1-23 above are incorporated by reference as if fully set forth herein.

25. The Criterion/Volition Accused Products are covered by at least claim 20 of the '040 Patent.

26. Firelands has directly infringed and continues to infringe at least claim 20 of the '040 Patent in violation of 35 U.S.C. § 271(a) by, directly or through intermediaries and without Traxxas' authority, making, using, selling, or offering to sell the Criterion/Volition Accused Products in the United States, or importing the Criterion/Volition Accused Products into the United States.

27. Further and in the alternative, at least since the filing and service of this Complaint, Firelands has been and now is actively inducing infringement of at least claim 20 of the '040 Patent in violation of 35 U.S.C. § 271(b). Users of the Criterion/Volition Accused

Products directly infringe at least claim 20 of the '040 Patent when they use the Criterion/Volition Accused Products in the ordinary, customary, and intended way. Firelands's inducements include, without limitation and with specific intent to encourage the infringement, knowingly inducing consumers to use the Criterion/Volition Accused Products within the United States in the ordinary, customary, and intended way by, directly or through intermediaries, supplying the Criterion/Volition Accused Products to consumers within the United States and instructing such consumers (for example in instruction manuals that Firelands provides online or with the Criterion/Volition Accused Products) how to use the Criterion/Volition Accused Products in the ordinary, customary, and intended way, which Firelands knows or should know infringes at least claim 20 of the '040 Patent.

28. Further and in the alternative, at least since the filing and service of this Complaint, Firelands has been and now is actively contributing to infringement of at least claim 20 of the '040 Patent in violation of 35 U.S.C. § 271(c). Firelands installs, configures, and sells the Criterion/Volition Accused Products with distinct components, including but not limited to a Receiver Box (Part No. HLNA0321), that are especially made or especially adapted to practice the invention claimed in at least claim 20 of the '040 Patent. The Receiver Box (Part No. HLNA0321) within the Criterion/Volition Accused Products constitutes a material part of the claimed invention recited in at least claim 20 of the '040 Patent and not a staple article or commodity of commerce because it is specifically configured according to at least claim 20 of the '040 Patent. Firelands's contributions include, without limitation, making, offering to sell, and/or selling within the United States, and/or importing into the United States, the Criterion/Volition Accused Products, which include the Receiver Box (Part No. HLNA0321), knowing the Receiver Box (Part No. HLNA0321) to be especially made or especially adapted for

use in an infringement of at least claim 20 of the '040 Patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

29. Firelands's infringement of the '040 Patent has been and continues to be willful and deliberate.

**B. Infringement of the '541 Patent**

30. The allegations of paragraphs 1-29 above are incorporated by reference as if fully set forth herein.

31. The Criterion/Volition Accused Products and the Dominus Accused Products are covered by at least claim 1 of the '541 Patent.

32. Firelands has directly infringed and continues to infringe at least claim 1 of the '541 Patent in violation of 35 U.S.C. § 271(a) by, directly or through intermediaries and without Traxxas' authority, making, using, selling, or offering to sell the Criterion/Volition Accused Products and the Dominus Accused Products in the United States, or importing the Criterion/Volition Accused Products and the Dominus Accused Products into the United States.

33. Further and in the alternative, at least since the filing and service of this Complaint, Firelands has been and now is actively inducing infringement of at least claim 1 of the '541 Patent in violation of 35 U.S.C. § 271(b). Users of the Criterion/Volition Accused Products and the Dominus Accused Products directly infringe at least claim 1 of the '541 Patent when they use the Criterion/Volition Accused Products and the Dominus Accused Products in the ordinary, customary, and intended way. Firelands's inducements include, without limitation and with specific intent to encourage the infringement, knowingly inducing consumers to use the Criterion/Volition Accused Products and the Dominus Accused Products within the United States in the ordinary, customary, and intended way by, directly or through intermediaries,

supplying the Criterion/Volition Accused Products and the Dominus Accused Products to consumers within the United States and instructing such consumers (for example in instruction manuals that Firelands provides online or with the Criterion/Volition Accused Products and the Dominus Accused Products) how to use the Criterion/Volition Accused Products and the Dominus Accused Products in the ordinary, customary, and intended way, which Firelands knows or should know infringes at least claim 1 of the '541 Patent.

34. Further and in the alternative, at least since the filing and service of this Complaint, Firelands has been and now is actively contributing to infringement of at least claim 1 of the '541 Patent in violation of 35 U.S.C. § 271(c). Firelands installs, configures, and sells the Criterion/Volition Accused Products and the Dominus Accused Products with distinct components, including but not limited to a Receiver Box (Part No. HLNA0321, HLNA0068, or HLNA0207), that are especially made or especially adapted to practice the invention claimed in at least claim 1 of the '541 Patent. The Receiver Box (Part No. HLNA0321, HLNA0068, or HLNA0207) within the Criterion/Volition Accused Products and the Dominus Accused Products constitutes a material part of the claimed invention recited in at least claim 1 of the '541 Patent and not a staple article or commodity of commerce because it is specifically configured according to at least claim 1 of the '541 Patent. Firelands's contributions include, without limitation, making, offering to sell, and/or selling within the United States, and/or importing into the United States, the Criterion/Volition Accused Products and the Dominus Accused Products, which include the Receiver Box (Part No. HLNA0321, HLNA0068, or HLNA0207), knowing the Receiver Box (Part No. HLNA0321, HLNA0068, or HLNA0207) to be especially made or especially adapted for use in an infringement of at least claim 1 of the '541 Patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.



35. Firelands's infringement of the '541 Patent has been and continues to be willful and deliberate.

**C. Infringement of the '763 Patent**

36. The allegations of paragraphs 1-35 above are incorporated by reference as if fully set forth herein.

37. The Ares Accused Products are covered by at least claim 1 of the '763 Patent.

38. Firelands has directly infringed and continues to infringe at least claim 1 of the '763 Patent in violation of 35 U.S.C. § 271(a) by, directly or through intermediaries and without Traxxas' authority, making, using, selling, or offering to sell the Ares Accused Products in the United States, or importing the Ares Accused Products into the United States.

39. Further and in the alternative, at least since the filing and service of this Complaint, Firelands has been and now is actively inducing infringement of at least claim 1 of the '763 Patent in violation of 35 U.S.C. § 271(b). Users of the Ares Accused Products directly infringe at least claim 1 of the '763 Patent when they use the Ares Accused Products in the ordinary, customary, and intended way. Firelands's inducements include, without limitation and with specific intent to encourage the infringement, knowingly inducing consumers to use the Ares Accused Products within the United States in the ordinary, customary, and intended way by, directly or through intermediaries, supplying the Ares Accused Products to consumers within the United States and instructing such consumers (for example in instruction manuals that Firelands provides online or with the Ares Accused Products) how to use the Ares Accused Products in the ordinary, customary, and intended way, which Firelands knows or should know infringes at least claim 1 of the '763 Patent.

40. Further and in the alternative, at least since the filing and service of this Complaint, Firelands has been and now is actively contributing to infringement of at least claim 1 of the '763 Patent in violation of 35 U.S.C. § 271(c). Firelands installs, configures, and sells the Ares Accused Products with distinct components, including but not limited to an LED light system, that is especially made or especially adapted to practice the invention claimed in at least claim 1 of the '763 Patent. The LED light system within the Ares Accused Products constitutes a material part of the claimed invention recited in at least claim 1 of the '763 Patent and not a staple article or commodity of commerce because it is specifically configured according to at least claim 1 of the '763 Patent. Firelands's contributions include, without limitation, making, offering to sell, and/or selling within the United States, and/or importing into the United States, the Ares Accused Products, which include the LED light system, knowing the LED light system to be especially made or especially adapted for use in an infringement of at least claim 1 of the '763 Patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

41. Firelands's infringement of the '763 Patent has been and continues to be willful and deliberate.

**D. Infringement of the '539 Patent**

42. The allegations of paragraphs 1-41 above are incorporated by reference as if fully set forth herein.

43. The Ares Accused Products are covered by at least claim 27 of the '539 Patent.

44. Firelands has directly infringed and continues to infringe at least claim 27 of the '539 Patent in violation of 35 U.S.C. § 271(a) by, directly or through intermediaries and without

Traxxas' authority, making, using, selling, or offering to sell the Ares Accused Products in the United States, or importing the Ares Accused Products into the United States.

45. Further and in the alternative, at least since the filing and service of this Complaint, Firelands has been and now is actively inducing infringement of at least claim 27 of the '539 Patent in violation of 35 U.S.C. § 271(b). Users of the Ares Accused Products directly infringe at least claim 27 of the '539 Patent when they use the Ares Accused Products in the ordinary, customary, and intended way. Firelands's inducements include, without limitation and with specific intent to encourage the infringement, knowingly inducing consumers to use the Ares Accused Products within the United States in the ordinary, customary, and intended way by, directly or through intermediaries, supplying the Ares Accused Products to consumers within the United States and instructing such consumers (for example in instruction manuals that Firelands provides online or with the Ares Accused Products) how to use the Ares Accused Products in the ordinary, customary, and intended way, which Firelands knows or should know infringes at least claim 27 of the '539 Patent.

46. Further and in the alternative, at least since the filing and service of this Complaint, Firelands has been and now is actively contributing to infringement of at least claim 27 of the '539 Patent in violation of 35 U.S.C. § 271(c). Firelands installs, configures, and sells the Ares Accused Products with distinct components, including but not limited to an LED light system, that is especially made or especially adapted to practice the invention claimed in at least claim 27 of the '539 Patent. The LED light system within the Ares Accused Products constitutes a material part of the claimed invention recited in at least claim 27 of the '539 Patent and not a staple article or commodity of commerce because it is specifically configured according to at least claim 27 of the '539 Patent. Firelands's contributions include, without limitation, making,

offering to sell, and/or selling within the United States, and/or importing into the United States, the Ares Accused Products, which include the LED light system, knowing the LED light system to be especially made or especially adapted for use in an infringement of at least claim 27 of the '539 Patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

47. Firelands's infringement of the '539 Patent has been and continues to be willful and deliberate.

## **VI. VICARIOUS LIABILITY**

48. The allegations of paragraphs 1-47 above are incorporated by reference as if fully set forth herein.

49. In addition to liability for its own independent conduct, Firelands is also liable for the conduct of its subsidiaries, affiliates, and related entities under the doctrines of alter ego and single business enterprise, and under applicable state and federal statutes and regulations.

## **VII. NOTICE AND MARKING**

50. The allegations of paragraphs 1-49 above are incorporated by reference as if fully set forth herein.

51. At all times, each and every patentee of the Asserted Patents, and each and every person making, offering for sale, or selling within the United States, or importing into the United States, any patented article for or under any of them, has complied with the marking requirements set forth in 35 U.S.C. § 287.

52. At least by filing and serving this Original Complaint for Patent Infringement, Traxxas has given Firelands written notice of its infringement.

### **VIII. DAMAGES**

53. The allegations of paragraphs 1-52 above are incorporated by reference as if fully set forth herein.

54. For the above-described infringement, Traxxas has been injured and seeks damages to adequately compensate it for Firelands's infringement of the Asserted Patents. Such damages, to be proved at trial, should be no less than the amount of a reasonable royalty under 35 U.S.C. § 284, together with Traxxas' costs and expenses, pre-judgment and post-judgment interest, and supplemental damages for any continuing post-verdict or post-judgment infringement, with an accounting as needed.

55. Firelands's infringement of the Asserted Patents has been and continues to be willful, such that Traxxas seeks treble damages under 35 U.S.C. § 284.

56. Firelands's willful infringement of the Asserted Patents renders this case exceptional under 35 U.S.C. § 285, such that Traxxas seeks all reasonable attorneys' fees and costs incurred in this litigation pursuant to 35 U.S.C. § 284, together with pre-judgment and post-judgment interest thereon.

### **IX. PRAYER FOR RELIEF**

Traxxas respectfully requests the following relief:

a. A judgment in favor of Traxxas that Firelands has infringed each of the Asserted Patents, whether literally or under the doctrine of equivalents, as described herein;

b. A permanent injunction enjoining Firelands, its officers, directors, agents, subsidiaries, employees, successors, and assigns, and all persons acting in privity, concert, or participation with it, from making, using, selling, or offering for sale in the United States, or

importing into the United States, any and all products and services embodying the inventions claimed in the Asserted Patents;

c. A judgment and order requiring Firelands to pay Traxxas its damages, costs, expenses, and pre-judgment and post-judgment interest for Firelands's infringement of the Asserted Patents as provided under 35 U.S.C. § 284, including supplemental damages for any continuing post-verdict or post-judgment infringement with an accounting as needed;

d. A judgment and order requiring Firelands to pay Traxxas enhanced damages for willful infringement as provided under 35 U.S.C. § 284;

e. A judgment and order finding this case exceptional and requiring Firelands to pay Traxxas its reasonable attorneys' fees and costs incurred in this litigation pursuant to 35 U.S.C. § 284, together with pre-judgment and post-judgment interest thereon; and

f. Such other and further relief as the Court deems just and proper.

#### **X. JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Traxxas requests a jury trial of all issues triable of right by a jury.

Dated: July 7, 2016

Respectfully Submitted,

By: /s/ William E. Davis, III  
William E. Davis, III  
Texas State Bar No. 24047416  
bdavis@bdavisfirm.com  
Debra Coleman (Of Counsel)  
Texas State Bar No. 24059595  
dcoleman@bdavisfirm.com  
**The Davis Firm, PC**  
213 N. Fredonia Street, Suite 230  
Longview, Texas 75601  
Telephone: (903) 230-9090  
Facsimile: (903) 230-9661

***Counsel for Plaintiff Traxxas, L.P.***