

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____

FRictionless World, LLC, a Colorado limited liability company,

Plaintiff,

vs.

COUNTRY HOME PRODUCTS, INC., a Delaware corporation,

Defendant.

COMPLAINT AND JURY DEMAND

Plaintiff Frictionless World, LLC (“Frictionless World”) states and alleges as follows for its Complaint against Defendant Country Home Products, Inc. (“CHP”):

I. PARTIES

1. Frictionless World is a Colorado limited liability company with its principal place of business in Westminster, Colorado. Frictionless World is the owner of U.S. Patent No. 9,381,668 (“the ‘668 Patent”).

2. CHP is a Delaware corporation with its principal place of business in Vergennes, Vermont. CHP manufactures, markets, and sells products and equipment for garden, lawn, home, yard, landscaping, farm, and ranch care and maintenance, including the DR® Trimmer/Mower, the DR® Stump Grinder, and the DR® Log Splitter lines of products. Included within its line of Log Splitters are the 22-ton DR Horizontal-Vertical Log Splitter, the 28-ton DR Horizontal-Vertical Log Splitter,

and the 34-ton DR Horizontal-Vertical Log Splitter. (*See* Exhibit 1, which is incorporated by reference herein).

II. SUBJECT MATTER JURISDICTION

4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 101 *et seq.*

5. This Court has subject matter jurisdiction over this patent infringement claim pursuant to 28 U.S.C. §§ 1331 and 1338.

III. PERSONAL JURISDICTION AND VENUE

6. CHP manufactures DR Horizontal-Vertical Log Splitters and has and/or continues to sell these products in Colorado.

7. CHP also has shipped the infringing DR Horizontal-Vertical Log Splitters into Colorado, offering to sell that product to Colorado residents.

8. CHP further operates an interactive website which allows consumers, including those located in Colorado, to purchase the infringing DR Horizontal-Vertical Log Splitters.

9. Based on the above facts, CHP has purposefully availed itself of the rights and privileges of conducting business in Colorado and is subject to personal jurisdiction in this judicial district.

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400.

IV. GENERAL ALLEGATIONS

11. Frictionless World is in the business of providing outstanding design, engineering, outsourcing and quality control of farm, ranch and garden machinery as well as equipment and

supplies for development and delivery of custom products to its customers. Frictionless World sells horizontal-vertical log splitters under the brand name Dirty Hands Tools.

A. The ‘668 Patent

12. On July 5, 2016, the United States Patent and Trademark Office (“USPTO”) granted the ‘668 Patent for a “Log Splitting Apparatus Having Log Splitter Frame with Stripper Plates.” (*See* Exhibit 2, which is incorporated by this reference herein.)

13. Among other things, the ‘668 Patent describes and claims a novel log splitter. The Abstract of the ‘668 Patent relevantly provides:

A log splitting apparatus having stripper plates for stripping logs from a blade member as a piston is retracted into a cylinder. In one arrangement, the stripper plates are removably securable to opposing sides of a log splitter frame of the apparatus to allow for replacement of the stripper plates with other stripper plates or other components (e.g., stroke reducing devices), use of multi-way (e.g., 4-way) wedge systems, and/or the like.

(‘668 Pat., Abstract.)

14. Without limitation as to the claims to be asserted in this action, Claim 1 of the ‘668 Patent reads:

An apparatus for splitting logs, comprising:
an elongated beam comprising first and second opposite ends, first and second opposite sides, and top and bottom opposite surfaces;
a mounting lug adjacent the first opposite end of the beam; a foot plate adjacent the second opposite end of the beam; a first stripper plate that includes:
a body portion that extends along the first side of the beam, wherein the body portion includes an inner surface, an opposite outer surface, a first side portion, an opposite second side portion, a top edge, and an opposite bottom edge; and
a contact portion attached to and extending away from the body portion;
a first mounting bracket connected to the top surface of the beam and the body portion of the first stripper plate to removably mount the first stripper plate adjacent the first side of the beam;
a second stripper plate that includes:

a body portion that extends along the second side of the beam, wherein the body portion includes an inner surface, an opposite outer surface, a first side portion, an opposite second side portion, a top edge, and an opposite bottom edge; and
 a contact portion attached to and extending away from the body portion; and
 a second mounting bracket connected to the top surface of the beam and the body portion of the second stripper plate to removably mount the second stripper plate adjacent the second side of the beam;
 wherein the contact portion of the first stripper plate extends towards the contact portion of the second stripper plate, wherein the contact portion of the second stripper plate extends towards the contact portion of the first stripper plate, wherein the first mounting bracket includes a mounting portion positioned over the top surface of the beam and an attachment portion positioned over the inner surface of the body portion of the first stripper plate, and wherein the second mounting bracket includes a mounting portion positioned over the top surface of the beam and an attachment portion positioned over the inner surface of the body portion of the second stripper plate.

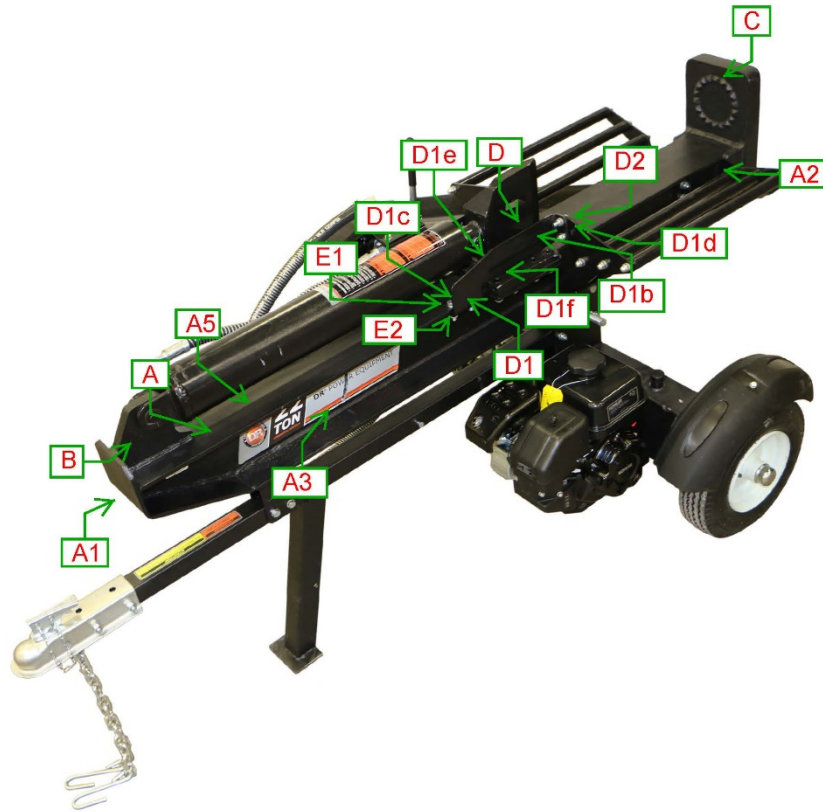
(*Id.*, col. 6, ll. 8-50.)

16. Frictionless World manufactures, markets and sells devices incorporating the inventions disclosed and claimed in the ‘668 Patent and those devices are properly marked as provided for in the patent statutes.

B. CHP’s Infringing Products

17. CHP is making, using, offering for sale, and selling within the United States or importing in the United States the 22-ton DR Horizontal-Vertical Log Splitter, the 28-ton DR Horizontal-Vertical Log Splitter, and the 34-ton DR Horizontal-Vertical Log Splitter (“CHP Log Splitters”).

18. An illustration of a 22-ton CHP Log Splitter is shown below with markers for features claimed in the ‘668 Patent, Figure 1.

FIGURE 1

19. The CHP Log Splitters infringe the Frictionless World Log Splitter. An exemplary claim chart is provided in Exhibit 3. Frictionless World reserves the right to amend Exhibit 3 based on information obtained through discovery. CHP's Log Splitters infringe the '668 Patent literally and/or under the doctrine of equivalents. (See Exhibit 3, which is incorporated by reference herein).

V. FIRST CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 9,381,668)

20. Frictionless World incorporates paragraphs 1 through 19 as though fully set forth herein.

21. CHP has infringed the '668 Patent by making, using, selling and/or offering for sale the CHP Log Splitters in the United States or importing the CHP Log Splitters into the United States and by inducing its customers to infringe the '668 Patent by encouraging their use, all without license or authority from Frictionless World, in violation of 35 U.S.C. § 271.

22. CHP has actual knowledge of the '668 patent and has actual knowledge of its infringement of the '668 Patent.

23. CHP's infringing acts have been willful and wanton, and in reckless disregard for Frictionless World's rights, entitling it to a trebling of its actual damages under 35 U.S.C. § 284, and making this an exceptional case for which attorney's fees should be awarded pursuant to 35 U.S.C. § 285.

24. As a result of CHP's infringing acts, Frictionless World has suffered and will continue to suffer irreparable injury for which there is no adequate remedy at law, entitling it to injunctive relief under 35 U.S.C. § 283.

VI. PRAYER FOR RELIEF

WHEREFORE, Frictionless World prays that this Court enter its Judgment and enter an Order:

1. Preliminarily and permanently enjoining CHP and its officers, agents, servants, employees, successors, assigns, and all persons in active concert with any of them, from infringing and/or inducing others to infringe U.S. Patent No. 9,381,668;
2. Awarding to Frictionless World monetary damages in an amount equal to the greater of Frictionless World's lost profits or a reasonable royalty pursuant to 35 U.S.C. § 284, and trebling those damages by reason of the willful, wanton, and deliberate nature of CHP's infringement, also pursuant to 35 U.S.C. § 284;
3. Awarding to Frictionless World its reasonable attorney's fees pursuant to 35 U.S.C. § 285;
4. Awarding to Frictionless World its costs incurred in this action, including expert witness fees; and
5. Awarding to Frictionless World prejudgment interest, post judgment interest and any such other and further relief as the Court may deem just and proper.

VII. JURY DEMAND

Frictionless World hereby demands a trial by jury as to all issues so triable.

Respectfully submitted,

Dated: 7/15/2016

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