

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

TECHSPORT LTD.)
2005 CHIT LEE COMMERCIAL BUILDING,)
30-36 SHAUKEIWAN ROAD)
HONG KONG)

Plaintiff,)

v.)

ANNEX PRODUCTS PTY. LTD.)
39-41 MOUNT ST.)
PRAHRAN VICTORIA 3181)
AUSTRALIA)

Defendant.)

CASE NO. 2:16-cv-716

JUDGE: Algenon L. Marbley

Magistrate Judge Elizabeth P. Deavers

PLAINTIFF’S FIRST AMENDED ORIGINAL COMPLAINT

COME NOW, Plaintiff Techsport LTD, pursuant to FRCP 15(a)(1)(A)¹, file its First Amended Complaint against Defendant Annex Products PTY, LTD and respectfully brings its causes of action before this Court.

AMENDED COMPLAINT

Plaintiff Techsport LTD. (“Techsport” or “Plaintiff”) states the following for its Amended Complaint against the Defendant:

¹ Plaintiff files this amended complaint as a matter of course pursuant to FRCP 15(a)(1)(A) as no responsive pleading has been filed.

1. This is an action at law and in equity under the Declaratory Judgment Act and the patent laws of the United States. Pursuant to 28 U.S.C. §§1331, 1338(a), 2202 and 2201 this Court has original and exclusive jurisdiction over this declaratory judgment action that arises under the patent laws of the United States.
2. Pursuant to 28 U.S.C. §§ 1391(c) and 1400(b) venue is proper in this District where the Defendant is doing business and has ongoing, continuous and systematic contacts.
3. Defendant has injured Plaintiff by sending letters to Plaintiff's customers, distributors and reseller falsely claiming that one of Plaintiff products infringes on Defendant's patent.

PARTIES

4. Plaintiff Techsport LTD., (“Techsport”) is a Hong Kong limited liability company with a principal place of business located at 2005 Chit Lee Commercial Building, 30-36 Shaukeiwan Road, Hong Kong.
5. Defendant Annex Products PTY. LTD. (“Annex” or “Defendant”) is an Australian limited liability company with their principal place of business located at U 6 12 Marriott St., Oakleigh, Victoria 3166 Australia.

JURISDICTION AND VENUE

6. Jurisdiction in the United States District Court is based on diversity of citizenship pursuant to 28 U.S.C. §1332(a)(2).
7. The amount in controversy in this Complaint exceeds \$75,000.00.
8. This Court has subject matter jurisdiction over these counterclaims under at least 28 U.S.C. §§ 1331, 1338(a), and 2201.
9. This Court has personal jurisdiction over the Defendant because Defendant’s wrongful

actions have affected Plaintiff in Central Ohio; because the Defendant has advertised and are doing business in Ohio; Defendant has engaged in acts or omissions within this State causing injury; Defendant has sold products to the citizens of this State or have otherwise made or established contacts with this State sufficient to permit the exercise of personal jurisdiction.

10. Venue is proper in the Southern District of Ohio because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

ALLEGATIONS COMMON TO ALL CLAIMS

11. Techsport repeats and hereby incorporates herein by reference all previous paragraphs.
12. Techsport is a top rated seller of sporting goods including bicycle mounts and has been since its incorporation as a limited liability company in 2005.
13. Techsport's resellers, clients and distributor have received letters falsely claiming that Techsport's Mount Case products and rebranded products infringed on Defendant's U.S. Patent No. 9,243,739, entitled "System and Method for Mounting a Handheld Electronic Device," issued on January 26, 2016 (the '739 patent). These letters threaten the resellers, distributors and clients with legal action unless they stopped selling the Techsport's products that the Defendant claimed to be infringing.
14. Techsport has been damaged through Defendant's action through lost sales, sales opportunities, lost reputation and client relations.
15. On information and belief, Defendant has offered to replace Techsport's products for sale with their own and to replace Techsport as their supplier.
16. On information and belief, Techsport believes that the elements covered by the claims in U.S. Patent No. 9,243,739 were well known and offered for sale well before the filing date

of May 30, 2012.

17. On information and belief, Techsport believes that the elements covered by the claims in U.S. Patent No. 9,243,739 are covered by prior art prior to the filing date of May 30, 2012.
18. On information and belief, Techsport believes that U.S. Patent No. 9,243,739 patent claims are invalid pursuant to 35 U.S.C. §§ 101 et seq., including § 102, § 103, and § 112.

COUNT 1 – DECLARATORY JUDGMENT OF NONINFRINGEMENT

19. Techsport repeats and hereby incorporates herein by reference all previous paragraphs.
20. Defendant has asserted claims against Techsport for the alleged infringement of U.S. Patent No. 9,243,739.
21. Plaintiffs have not infringed any claim of Patent No. 9,243,739 – directly, indirectly (either contributorily or through inducement), literally, under the doctrine of equivalents, or otherwise.
22. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §2201 et seq., Techsport is entitled to a declaratory judgment from this Court finding that the claims of U.S. Patent No. 9,243,739 are not infringed by Techsport
23. U.S Patent 9,243,739 has 20 issued claims with 5 independent claims which are Claims 1, 16, 17, 19 and 20. If a product does not read on the independent claim it does not read on the dependent claims attached to that dependent claim.
24. Claims 1, 16, 17, 19 and 20 of the '739 Patent recite as follows: A system for mounting an electronic handheld device, the system including: an apparatus adapted for attachment to an electronic handheld device and a mounting structure within a wall of the apparatus, wherein the mounting structure includes a cavity formed at a first end by an end wall and at a second end by at least two arcuate projections with at least two arcuate grooves formed between the at least

two arcuate projections; and a locking structure having a generally circular wall with at least two arcuate projections extending outwardly from an edge of the circular wall, wherein at least two arcuate grooves are formed between the at least two arcuate projections; a biased structure having a tab extending therefrom, the biased structure being biased toward the locking structure; wherein the locking structure is attached to the apparatus by moving the biased structure away from the locking structure, aligning the at least two arcuate projections of the locking structure with the at least two arcuate grooves of the mounting structure, inserting the locking structure into the cavity, rotating the locking structure or the apparatus until the at least two arcuate projections of the mounting structure are at least partially aligned with the at least two arcuate projections of the locking structure, respectively, thereby attaching the apparatus and the locking structure, and releasing the biased structure to allow the tab on the biased structure to enter one of the at least two grooves in the apparatus to prevent rotation or removal of the locking structure from the apparatus.

- a. A system for mounting an electronic handheld device, the system including: a mount adapted to be attached to a structure, the mount including a mount wall having a first surface with a guide extending there from and a second opposing surface adapted to be attached to a structure; an apparatus adapted for attachment to an electronic handheld device and a mounting structure within a wall of the apparatus, wherein the mounting structure includes a cavity formed at a first end by an end wall and at a second end by at least two arcuate projections with at least two grooves formed between the at least two projections; a cap attached to an end of the guide opposite the first surface, the cap including a generally circular wall and at least two arcuate projections extending

outwardly from an edge of the circular wall, wherein at least two grooves are formed between the at least two projections; and a biased structure spring-loadingly mounted adjacent the guide and including a locking tab, wherein the biased structure is biased against the cap in an unactuated position and wherein the biased structure is moved to an actuated position by moving the biased structure toward the mount wall, wherein in the actuated position, the at least two arcuate projections of the cap are aligned with the at least two grooves of the mounting structure and, in the unactuated position, the locking tab on the biased structure is simultaneously positioned within one of the at least two groove in the cap and one of the at least two grooves in the apparatus to prevent rotation or removal of the cap from the apparatus.

- b. A system for mounting an electronic handheld device, the system comprising: an apparatus adapted for attachment to an electronic handheld device and a mounting structure within a wall of the apparatus, wherein the mounting structure includes a cavity formed at a first end by an end wall and at a second end by at least one arcuate projection with at least one arcuate groove formed adjacent the at least one arcuate projection; a biased structure comprising: a body; a mount disposed at a first end of the body and adapted to be attached to a structure; a cap disposed at a second end of the body opposite the mount and comprising a generally circular wall with at least one arcuate projection extending outwardly from an edge of the circular wall and at least one arcuate groove formed adjacent the at least one arcuate projection, wherein the arcuate projection and arcuate groove of the apparatus are adapted to interact with the arcuate projection and arcuate groove of the cap to attach the cap to the apparatus; and a biased projection

disposed between the mount and the cap and biased toward the cap, wherein in an actuated position, the biased projection is moved away from the cap such that the at least one arcuate projection of the cap are inserted into the at least one arcuate groove of the apparatus and, in an unactuated position, the biased projection is released into a recess in the apparatus to attach the biased structure to the apparatus.

- c. A system for mounting an electronic handheld device, the system including: an apparatus adapted for attachment to an electronic handheld device and a mounting structure within a wall of the apparatus, wherein the mounting structure includes a cavity formed at a first end by an end wall and at a second end by at least two arcuate projections with at least two grooves formed between the at least two projections; and a locking structure having a cylindrical structure, generally circular top wall with at least two arcuate projections extending outwardly from an edge of the top wall, wherein at least two grooves are formed between the at least two projections and wherein at least one of the arcuate projections includes a first surface facing away from the cylindrical structure, a second surface facing the cylindrical structure, and a radial elongate projection extending along the second surface; a locking projection operatively connected to the locking structure; wherein the locking structure is attached to the apparatus by aligning the at least two arcuate projections of the locking structure with the at least two grooves of the mounting structure, inserting the locking structure into the cavity, and rotating the locking structure or the apparatus until the at least two arcuate projections of the mounting structure are at least partially aligned with the at least two projections of the locking structure, respectively, thereby attaching the apparatus and the locking structure, and allowing the

locking projection to enter one of the at least two grooves in the apparatus to prevent rotation or removal of the locking structure from the apparatus.

- d. A system for mounting an electronic handheld device, the system including: an apparatus adapted for attachment to an electronic handheld device and a mounting structure within a wall of the apparatus, wherein the mounting structure includes a cavity formed at a first end by an end wall and at a second end by four arcuate projections spaced ninety degrees from adjacent arcuate projections and having grooves formed between each of the arcuate projections; and a locking structure having a generally circular wall with four arcuate projections extending outwardly from an edge of the circular wall and spaced ninety degrees from adjacent arcuate projections, wherein grooves are formed between each of the arcuate projections, and wherein the locking structure is in the form of a cap that is connected to the mounting structure such that the arcuate projections of the locking structure are disposed within the annular grooves of the locking structure when the spring is not compressed; wherein the locking structure is attached to the apparatus by moving a biased structure biased toward the locking structure away from the locking structure, aligning the arcuate projections of the locking structure with the grooves of the mounting structure, inserting the locking structure into the cavity, and rotating the locking structure or the apparatus until the arcuate projections of the mounting structure are at least partially aligned with the arcuate projections of the locking structure, respectively, thereby attaching the apparatus and the locking structure.

25. On information and belief, Defendant's claims of U.S. Patent No. 9,243,739 do not read on Techsport's products.

26. Claim 1 has as a required element of the claim "a biased structure having a tab extending therefrom, the biased structure being biased toward the locking structure." The locking portion of Plaintiff's products extends and is biased radially outwardly, perpendicularly to the axis of the circular wall, and not towards the circular wall of the locking structure so it does not read on Claim 1.
27. Claim 1 has as a required element of the claim "wherein the locking structure is attached to the apparatus by moving the biased structure away from the locking structure." On the Plaintiff's products, when the locking portion is depressed by the user, protrusions under the cap retract in the 2nd fixing part, under and along the circular wall. The protrusions do not move away from the circular wall at any time during attachment, and anyway do not need to be moved at the stage of inserting the 2nd fixing part [locking structure] into the embedded groove [mounting structure]. Therefore the Plaintiff's products do not read on Claim 1.
28. Claim 16 has as a required element of the claim "wherein the biased structure is biased against the cap in an unactuated position." On the Plaintiff's products, its protrusions are not biased against the cap, but parallel to plane of the cap]. Therefore the Plaintiff's products do not read on Claim 16.
29. Claim 16 has as a required element of the claim "wherein the biased structure is moved to an actuated position by moving the biased structure toward the mount wall." On the Plaintiff's products the direction of movement of protrusions [the biased structure] is different. Therefore the Plaintiff's products do not read on Claim 16.
30. Claim 16 has as a required element of the claim "wherein in the actuated position, the at least two arcuate projections of the cap are aligned with the at least two grooves of the mounting

structure and," In Plaintiff's products, the actuation of the protrusions does not occur when the clamps/clips [projections] of the cap are aligned with the grooves of the embedded groove [mounting structure], but at a certain stage of relative rotation between the two. Therefore the Plaintiff's products do not read on Claim 16.

31. Claim 16 has as a required element of the claim "in the unactuated position, the locking tab on the biased structure is simultaneously positioned within one of the at least two grooves in the cap and one of the at least two grooves in the apparatus to prevent rotation or removal of the cap from the apparatus." In Plaintiff's products, the protrusions (of the biased structure) are never positioned into the grooves of the cap, so they cannot be "simultaneously" positioned into the grooves of the cap and the grooves of the case. Therefore the Plaintiff's products do not read on Claim 16.

32. Claim 17 has as a required element of the claim "a biased projection disposed between the mount and the cap and biased toward the cap." In Plaintiff's products, the protrusions are not biased toward the cap, but parallel to the plane of the cap. Therefore the Plaintiff's products do not read on Claim 17.

33. Claim 17 has as a required element of the claim " wherein in an actuated position, the biased projection is moved away from the cap such that the at least one arcuate projection of the cap are inserted into the at least one arcuate groove of the apparatus and," In Plaintiff's products, protrusions [biased projections] are biased parallel to (and not away from) the cap. Therefore the Plaintiff's products do not read on Claim 17.

34. Claim 19 has as a required element of the claim " an apparatus adapted for attachment to an electronic handheld device and a mounting structure within a wall of the apparatus, wherein the

mounting structure includes a cavity formed at a first end by an end wall and at a second end by at least two arcuate projections with at least two grooves formed between the at least two projections;" In Plaintiff's products, each projection is considered separately, and is not arcuate and the notches, are not arcuate. Therefore the Plaintiff's products do not read on Claim 19.

35. Claim 20 has as a required element of the claim "wherein the locking structure is attached to the apparatus by moving a biased structure biased toward the locking structure away from the locking structure, aligning the arcuate projections of the locking structure with the grooves of the mounting structure, inserting the locking structure into the cavity, and rotating the locking structure or the apparatus until the arcuate projections of the mounting structure are at least partially aligned with the arcuate projections of the locking structure, respectively, thereby attaching the apparatus and the locking structure." In Plaintiff's products, the protrusions are not biased toward the cap, but parallel to the plane of the cap [locking structure]. Therefore the Plaintiff's products do not read on Claim 20.

36. Defendant admits that the Plaintiff does not infringe on Claims 1, 16 and 20 when it filed a COMPLAINT FOR PATENT INFRINGEMENT (Exhibit 1) in the Northern District of Illinois on August 19, 2016 which only presented Claims 17 and 19 as potentially infringed claims. This was filed after the original complaint was filed and proves that there is a real issue in dispute in the current case before this United States District Court, Southern District of Ohio.

37. None of U.S. Patent No. 9,243,739 claims completely read on the Techsport product that Defendant claims to be infringing.

COUNT II – DECLARATORY JUDGMENT OF INVALIDITY

38. Techsport repeats and here by incorporates herein by reference all previous paragraphs.
39. On information and belief, Techsport believes that the claims of U.S. Patent No. 9,243,739 are invalid pursuant to 35 U.S.C. §§ 101 et seq., including § 102, § 103, and § 112 based on prior art and the fact that the covered claims were well known in the art prior to the filing date of May 30, 2012.
40. As one example of prior art, the Bryton Model 40 manual discloses the Defendant's invention (Exhibit 2). This shows one similar products as claimed by U.S. Patent No. 9,243,739 that were disclosed to the public, offered for sale and well known in the field of art.
41. Another example of prior art which invalidates the patent is US 2012/0195587 A1 (Exhibit 3) which discloses the Mounting Structure as claimed in U.S. Patent No. 9,243,739, having more than two arcuate projections with more than two grooves between them, Where the bias structure is depressed when mounting the lens on the camera body, and projects out as the hole reaches above it after the rotation of lens..
42. Another example of prior art which invalidates the patent is U.S. Patent No. 3,864,172A1 (Exhibit 4) which discloses a Mounting Structure as claimed in U.S. Patent No. 9,243,739.
43. As a result, Techsport is entitled to a declaratory judgment pursuant to 28 U.S.C. §§ 2201 et seq. from this Court finding that the claims of the U.S. Patent No. 9,243,739 are invalid pursuant to 35 U.S.C. §§ 101 et seq., including § 102, § 103, and § 112.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff Techsport prays:

1. Defendants be permanently enjoined from sending communication or stating that Techsport's

- product infringes on their U.S. Patent No. 9,243,739.
2. For a declaratory judgment that U.S. Patent No. 9,243,739, and each and every asserted claim thereof, are not infringed;
 3. For a declaratory judgment that the claims of U.S. Patent No. 9,243,739 are invalid;
 4. That pursuant to 35 U.S.C. § 285, or other applicable authority, a finding that this case is “exceptional” and Techsport be compensated for all reasonable attorneys’ fees incurred in this action; and
 5. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

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JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues triable by jury in this case.

/s/ Gregory P. Barwell

WESP BARWELL, L.L.C.

Gregory P. Barwell (0070545)

Quinn M. Schmiede (0085638)

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification to all counsel of record. The foregoing will be sent via US mail or email to all who are not counsel of record.

/s/Quinn M. Schmiede

Quinn M. Schmiede (0085638)