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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DISTRICT

<p>MITY-LITE, INC., a Utah corporation</p> <p style="text-align: center;">Plaintiff</p> <p style="text-align: center;">v.</p> <p>DOREL JUVENILE GROUP, INC., d/b/a COSCO HOME & OFFICE PRODUCTS, a Massachusetts corporation,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">COMPLAINT</p> <p>Case No. 2:17-cv-00053-EJF</p> <p>Magistrate Judge Evelyn J. Furse</p>
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Plaintiff Mity-Lite, Inc. (“Mity-Lite”) by and through its counsel hereby files this Complaint with Jury Demand against Defendant Dorel Juvenile Group, Inc. d/b/a Cosco Home & Office Products (“Cosco” or “Defendant”).

COMPLAINT

Plaintiff complains and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Mity-Lite is a Utah corporation having a principal place of business at 1301 W 400 N, Orem, Utah 84057.

2. Upon information and belief, Defendant is a Massachusetts company with its principal place of business at 25 Forbes Boulevard, Suite 4, Foxborough, MA 02035.

3. Plaintiff brings this action under U.S. patent laws, 35 U.S.C. §§ 1 et seq.

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338.

5. Upon information and belief, this Court has specific personal jurisdiction over Defendant as Defendant has purposefully directed its activities toward the state of Utah by selling the products at issue in this case into the state of Utah.

6. This Court has supplemental jurisdiction over any state law, or statutory and common law claims pursuant to 28 U.S.C. § 1367.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391 because Defendant conducts business in this district directly related to the patents at issue in this case, is subject to the court's personal jurisdiction in this case, and a substantial part of the infringing activity giving rise to the Plaintiffs' causes of action occurred in this judicial district.

BACKGROUND

8. Mity-Lite is in the business of designing, manufacturing, marketing, distributing, and selling furniture products.

9. For nearly 30 years, Mity-Lite has manufactured and sold tables, chairs, carts, flooring, staging, and partitions for a variety of markets, including without limitation the hospitality, higher education, religious worship, government, healthcare, and restaurant industries.

10. Many of Mity-Lite's innovative products are covered by various utility and design patents. One such product is a folding chair that has a mesh patterned plastic seat and backrest

that flexes to support the person sitting in the chair while reducing the weight of the chair and remaining easy to clean. This folding chair is covered by U.S. Patent No. 9,492,014, entitled “Mesh Folding Chair” and issued on November 15, 2016 (“’014 Patent”). Mity-Lite is the owner and assignee of the ’014 Patent. A copy of the ’014 Patent is attached hereto as Exhibit A.

11. Claim 1 of the ’014 Patent is a representative claim. This claim states as follows:

1. A folding chair, comprising:

- a) a seat and a backrest carried between opposite frame sides each with a backrest support, a front leg and a rear leg, and having an unfolded seating position in which the seat pivots to extend from the frame sides and bottoms of the front and rear legs move apart, and a folded position in which the seat pivots toward the frame sides and the front and rear legs move together; and
- b) one or both of the seat and the backrest having a continuous sheet of flexible and elastic patterned open texture plastic held taut across and substantially covering an opening in an all-plastic hoop fixed between the frame sides, wherein the sheet of patterned open texture plastic is formed together with the all-plastic hoop as a single unit by injection molding.

12. Upon information and belief, Defendant is in the business of making, using, selling, offering for sale, and/or importing into the United States a variety of consumer products, including home and office furniture.

13. Upon information and belief, Defendant sells home and office furniture under the COSCO brand, including chairs, tables, step stools, specialty ladders, handtrucks, and storage shelves.

DEFENDANT’S MISCONDUCT

14. Upon information and belief, Defendant makes, uses, sells, offers for sale, and/or imports into the United States a “Resin Mesh Folding Chair” under the COSCO brand (the “Infringing Chair”). Two images of an example of the Infringing Chair is shown below.



15. Upon information and belief, the Infringing Chair has a seat and a backrest supported by a powder coated steel frame. Each side of the frame has two legs, a front leg and a rear leg. When the Infringing Chair is unfolded, the seat folds down and extends away from the sides of the frame while the bottoms of the front and rear legs move apart. When the Infringing Chair is folded up, the seat folds up and rests between the two sides of the frame while the front and rear legs on each side come together.

16. Upon information and belief, the seat and backrest of the Infringing Chair are made of a flexible plastic resin. The seat and backrest each have a solid perimeter with a mesh patterned inner surface.

17. Upon information and belief, each of the seat and backrest of the Infringing Chair is formed as a single piece by injection molding.

18. The perimeter of the seat and backrest forms a hoop, and the openings are covered in large part by a patterned mesh made of plastic resin.

19. Upon information and belief, Defendant makes, uses, sells, offers for sale, imports, and/or distributes the Infringing Chair in the United States, including the State of Utah.

20. According to a webpage for the Infringing Chair on the Defendant's website, the Infringing Chair can be purchased from multiple retailers, including without limitation, Home

Depot, Kmart, Sears, Staples, Target, and Walmart. The webpage also contains links to these retailers' websites. A screenshot of the webpage for the Infringing Chair on the Defendant's website is attached hereto as Exhibit B.

21. Upon information and belief, Defendant's continued manufacture, use, sale, offer for sale, import, and distribution of the Infringing Chair has injured, is injuring, and will continue to cause irreparable injury to Mity-Lite.

22. Upon information and belief, Mity-Lite has been and continues to be significantly damaged by Defendant's actions. So long as Defendant continues performing the unlawful and improper actions described in this Complaint, Mity-Lite will continue to suffer irreparable harm that will not be fully compensable by money damages.

FIRST CAUSE OF ACTION
Direct Patent Infringement
35 U.S.C. § 271(a)

23. Mity-Lite hereby incorporates by reference each and every preceding allegation of this Complaint as if set forth fully herein.

24. Defendant makes, uses, sells, offers to sell, imports, and/or distributes the Infringing Chair, which infringes at least claim 1 of the '014 Patent, literally as well as under the doctrine of equivalents.

25. At no time has Mity-Lite granted Defendant permission, license, or authorization to make, use, sell, offer for sale, or import the Infringing Chair or to practice the claims of the '014 Patent.

26. Upon information and belief, Defendant's infringing activities have damaged Mity-Lite in an amount to be proven at trial. Among other remedies, Mity-Lite is entitled to its lost profits or, in the alternative, a reasonable royalty to adequately compensate it for

Defendant's infringing activities. Additionally, the harm to Mity-Lite arising from these acts by Defendant is not fully compensable by money damages. Mity-Lite has suffered, and continues to suffer, irreparable harm that has no adequate remedy at law and that will continue unless this infringing conduct by Defendant is preliminarily and permanently enjoined.

27. Upon information and belief, Defendant acted in an objectively reckless manner with respect to Mity-Lite's patent rights. Upon information and belief, Defendant made, used, sold, and offered for sale its Infringing Chair knowing that it was highly likely that its acts would induce and contribute to the infringement of a valid patent. As a consequence, Defendant has engaged in willful infringement of the '014 Patent. Mity-Lite is therefore entitled to treble damages and attorneys' fees as well as costs incurred in this action along with prejudgment interest under 35 U.S.C. §§ 284 and 285.

SECOND CAUSE OF ACTION
Induced Patent Infringement
35 U.S.C. § 271(b)

28. Mity-Lite hereby incorporates by reference each and every preceding allegation of this Complaint as if set forth fully herein.

29. Upon information and belief, Defendant's customers and others have used the Infringing Chair.

30. At no time has Mity-Lite granted Defendant or users of the Infringing Chair permission, license, or authorization to practice the claims of the '014 Patent.

31. Accordingly, Defendant's customers and users of the Infringing Chair are infringing and have infringed claim 1 of the '014 Patent.

32. Upon information and belief, Defendant was aware of the '014 Patent.

33. Upon information and belief, Defendant intended for its customers and users of the Infringing Chair to use the Infringing Chair in a manner that Defendant knew, or should have known, would infringe the '014 Patent.

34. Accordingly, Defendant has induced and is inducing its customers to infringe at least claim 1 of the '014 Patent.

35. Upon information and belief, Defendant's infringing activities have damaged Mity-Lite in an amount to be proven at trial. Among other remedies, Mity-Lite is entitled to its lost profits or, in the alternative, a reasonable royalty to adequately compensate Mity-Lite for Defendant's infringing activities. Additionally, the harm to Mity-Lite arising from these acts by Defendant is not fully compensable by money damages. Mity-Lite has suffered, and continues to suffer, irreparable harm that has no adequate remedy at law and that will continue unless this infringing conduct by Defendant is preliminarily and permanently enjoined.

36. Upon information and belief, Defendant acted in an objectively reckless manner with respect to Mity-Lite's patent rights. Upon information and belief, Defendant made, used, sold, and offered for sale its Infringing Chair knowing that it was highly likely that its acts would induce infringement of a valid patent. As a consequence, Defendant has engaged in willful infringement of the '014 Patent. Mity-Lite is therefore entitled to treble damages and attorneys' fees as well as costs incurred in this action along with prejudgment interest under 35 U.S.C. §§ 284 and 285.

THIRD CAUSE OF ACTION
Contributory Infringement
35 U.S.C. § 271(c)

37. Mity-Lite hereby incorporates by reference each and every preceding allegation of this Complaint as if set forth fully herein.

38. Upon information and belief, Defendant's customers and others have used the Infringing Chair.

39. At no time has Mity-Lite granted Defendant or users of the Infringing Chair permission, license, or authorization to practice the claims of the '014 Patent.

40. Accordingly, Defendant's customers and users of the Infringing Chair are infringing and have infringed claim 1 of the '014 Patent.

41. Upon information and belief, Defendant was aware of the '014 Patent.

42. Upon information and belief, Defendant knew that its customers and users of the Infringing Chair used the Infringing Chair in a manner that Defendant knew, or should have known, would infringe the '014 Patent.

43. Upon information and belief, the Infringing Chair marketed and sold by the Defendant is a material part of the invention claimed by the '014 Patent and does not have a substantial non-infringing use.

44. Upon information and belief, the Infringing Chair is known by the Defendant to be especially made or especially adapted for use in an infringement of the '014 Patent.

45. Upon information and belief, Defendant's infringing activities have damaged Mity-Lite in an amount to be proven at trial. Among other remedies, Mity-Lite is entitled to its lost profits or, in the alternative, a reasonable royalty to adequately compensate Mity-Lite for Defendant's infringing activities. Additionally, the harm to Mity-Lite arising from these acts by Defendant is not fully compensable by money damages. Mity-Lite has suffered, and continues to suffer, irreparable harm that has no adequate remedy at law and that will continue unless this infringing conduct by Defendant is preliminarily and permanently enjoined.

46. Upon information and belief, Defendant acted in an objectively reckless manner with respect to Mity-Lite's patent rights. Upon information and belief, Defendant made, used, sold, and offered for sale the Infringing Chair knowing that it was highly likely that its acts would contribute to the infringement of a valid patent. As a consequence, Defendant has engaged in willful contributory infringement of the '014 Patent. Mity-Lite is therefore entitled to treble damages and attorneys' fees as well as costs incurred in this action along with prejudgment interest under 35 U.S.C. §§ 284 and 285.

WHEREFORE, it is respectfully requested that the Court enter judgment in favor of Plaintiffs as follows:

- A. That the Court enter judgment that Defendant has infringed the '014 Patent.
- B. That the Court enter judgment that Defendant has induced the infringement of the '014 Patent.
- C. That the Court enter judgment that Defendant has contributorily infringed the '014 Patent.
- D. That Defendant be ordered to pay damages to Mity-Lite, together with interest, in an amount to be determined by this Court.
- E. That the Court award Mity-Lite treble damages pursuant to 35 U.S.C. §284.
- F. That the Court award Mity-Lite punitive damages.
- G. That the Court award Mity-Lite costs and attorneys' fees related to this action pursuant to 35 U.S.C. § 285.
- H. That the Court award Mity-Lite prejudgment interest.
- I. That Mity-Lite has such other and further relief as shall seem just and proper to the Court.

J. That the Court grant preliminary and permanent injunctive relief enjoining Defendant, its officers, directors, principals, agents, servants, employees, successors and assigns, and all other aiding, abetting, or acting in concert or active participation therewith, from directly or indirectly infringing the '014 Patent, including with limitation, precluding Defendant from making, using, selling, offering for sale, or importing the Infringing Chair.

JURY DEMAND

Mity-Lite demands that all claims and causes of action raised in this Complaint be tried to a jury to the fullest extent possible under the United States and Utah Constitutions.

DATED this 19th day of January, 2017.

THORPE NORTH & WESTERN, LLP

/s/ Peter M. de Jonge

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Attorneys for Plaintiff Mity-Lite, Inc.