

UNITED STATE DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

Nivel Parts & Manufacturing
Co., LLC

Plaintiff,

v.

Textron, Inc.

Defendant.

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL, DAMAGES AND INJUNCTIVE RELIEF**

Plaintiff, Nivel Parts & Manufacturing Co., LLC (“Nivel”) sues Defendant Textron, Inc. (“Textron”) and alleges as follows:

NATURE OF ACTION

This is an action for willful infringement by Textron of Nivel’s patent right, arising out of Textron’s production, importation, distribution, sale and offer for sale of seat assemblies, sold under the PRO-FIT brand (“the infringing seat assemblies”).

THE PARTIES

1. Nivel is a Delaware corporation with its principal place of business in Jacksonville, Florida.
2. Upon information and belief, Textron is a Delaware Corporation with its principal place of business in Providence, Rhode Island. Textron includes a division known as

E-Z-GO (“E-Z-GO”), which has a principal place of business at 1451 Marvin Griffin Road, Augusta, Georgia.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code.

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

5. This Court has personal jurisdiction over Textron pursuant to section 48.193, Florida Statutes (2015), because Textron regularly conducts business in Florida, is causing injury in Florida, is engaged in substantial and not isolated activity within Florida and/or because a substantial part of the claims arose in this district.

6. Venue within this judicial district is proper under 28 U.S.C. §§ 1391(b) and (c), and 1400(b) because Textron is subject to personal jurisdiction in this judicial district and because Textron regularly conducts business in this district.

Nivel’s Business and Products

7. Nivel has been engineering, manufacturing, supplying, distributing, and and/or selling golf cart parts and accessories since 1968.

8. Nivel is the largest supplier of aftermarket golf cart parts and accessories in North America, with a product offering of over 10,000 different goods and products.

9. Nivel has expended and continues to expend much time, money and effort into product research and development.

Nivel's Patent Right in U.S. Patent No. 9,481,265

10. On December 23, 2014, Madjax, Inc. filed U.S. Patent Application 14/451,735 ("the '735 application"), entitled CONVERTIBLE GOLF CART SEAT ASSEMBLY, based on U.S. Provisional Patent Application No. 61/925,905, filed January 10, 2014.

11. On September 30, 2015, Nivel purchased Madjax, Inc., including the '735 application.

12. On November 1, 2016, U.S. Patent No. 9,481,265 ("the '265 patent") duly and legally issued to Nivel from the '735 application. A copy of the '265 patent is attached as **Exhibit A**.

13. Nivel is the owner of all right, title and interest in and to the '265 patent, including the right to sue and to recover for past infringements thereof.

Textron's Infringement of U.S. Patent No. 9,481,265

14. Textron has infringed and is continuing to infringe on at least claims 1, 3 and 7 of the '265 patent by making, using, selling and offering to sell convertible seat assemblies, including at least seat assemblies sold under the Pro-Fit brand as the TXT, RXV, Club Car DS, Club Car Precedent, and Yamaha Drive editions ("the infringing seat assemblies").

15. On information and belief, pursuant to the statutory requirements of 35 U.S.C. § 287, Textron has been on actual notice of its infringement of the '265 patent since at least as early as November 17, 2016, when Nivel sent a cease and desist letter by e-mail to Textron, notifying Textron of its infringement of the '265 patent.

16. Textron's sale of the infringing seat assemblies competes with Nivel's products, and has and will continue to irreparably harm Nivel.

17. On information and belief, Textron's infringement of the '265 patent has been and continues to be with knowledge of the '265 patent and is willful and deliberate.

18. Nivel has been and continues to be damaged by Textron's infringement, and will be irreparably injured unless this Court enjoins Textron from continuing its activities.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Nivel prays for judgment as follows:

A. That Nivel is the owner of all right, title and interest in and to U.S. Patent No. 9,481,265, together with all rights of recovery under the patent;

B. That U.S. Patent No. 9,481,265 is valid and enforceable in law and that Textron has infringed the patent;

C. Awarding to Nivel its damages caused by Textron's infringement;

D. That Textron's infringement is and has been willful and that damages be trebled pursuant to 35 U.S.C. § 284;

E. Entering a preliminary and permanent injunction against Textron, its officers, agents, servants, employees, attorneys, all parent and subsidiary corporations and affiliates, their assigns and successors in interest, and those persons in active concert or participation with any of them who receive notice of the injunction, enjoining them from continuing acts of infringement of U.S. Patent No. 9,481,265, including without limitation continuing to make, use, sell or offer for sale but not limited to manufacturing, importing, selling, or offering for sale products with the patented features protected by the U.S. Patent 9,481,265, including at least the TXT, RXV, Club Car DS, Club Car Precedent, and Yamaha Drive seat assembly editions.

F. That this is an exceptional case and awarding Nivel its costs, expenses and reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and

G. Awarding to Nivel such other and further relief as this Court may deem just and proper.

JURY DEMAND

Nivel hereby demands a trial by jury of all issues so triable.

Dated: February 7, 2017

s/ Dennis P. Waggoner

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