

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
FLORIDA**

SERIES INTERNATIONAL, LLC; and
SERIES, LLC,

Plaintiff,

vs.

DUCHARME SEATING INTERNATIONAL
(1991) INC. d/b/a DUCHARME SEATING,

Civil Action No. 1:17-cv-20741-FAM

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

Plaintiffs, Series International, LLC, and Series, LLC, (collectively “Series” or “Plaintiffs”), by counsel, file this first amended complaint against Defendant, Ducharme Seating International (1991) Inc. d/b/a Ducharme Seating (“Defendant”). Plaintiff’s original complaint (Doc. 1) included errors that arose during the process of conversion from Word to PDF format for the purposes of filing. Particularly, incomplete versions of figures found at Paragraphs 21, 49, 55, 74 and 76 were included in the complaint (Doc. 1) due to the conversion error and correct versions are included herein. Therefore, Plaintiff hereby alleges as follows:

NATURE OF ACTION

1. This is a civil action for infringement of U.S. Patent No. 6,698,834 (“the ‘834 patent”), U.S. Patent No. 6,786,549 (“the ‘549 patent”) (collectively, “the Asserted Patents”) as well as for infringement of Plaintiffs’ trademark rights in its ACADEMY and SYMPHONY chairs.

PARTIES

2. Plaintiffs are limited liability companies formed under the laws of the State of

Florida and maintain their principal places of business at 20900 Northeast 30th Avenue, Suite 901, Aventura, FL 33180. Plaintiffs are leaders in seating design, manufacture and sale for a wide variety of seating projects including auditoriums, theaters and event spaces.

3. Plaintiffs are owned and/or controlled by Alvaro Mauricio Olarte, the inventor of the asserted patents and Plaintiffs have designed and commercialized an innovative tilt mechanism and seating system that is covered by the asserted patents.

4. Series International, LLC holds title to all intellectual property rights relevant to this dispute, particularly, Series International, LLC is the owner of title to the asserted patents and trademarks.

5. Series, LLC is responsible for selling products covered by the asserted patents to customers in the United States and enjoys an exclusive license to do so under the asserted patents. This exclusive license has been in force during all relevant times of the present dispute.

6. Upon information and belief, Defendant is organized under the laws of Canada and maintains its principal place of business at 9275 rue le Royer Saint-Léonard, Québec Canada H1P 3H711.

7. Defendant competes directly with Plaintiffs on a number of large scale seating projects for auditoriums and event spaces throughout the United States.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §§1331 and 1338(a) because this action arises under the laws of the United States, 35 U.S.C. §271 and 15 U.S.C. § 1121. This court has supplemental jurisdiction over state law claims pursuant to 28 U.S.C. § 1367(a).

9. This Court also has jurisdiction pursuant to 28 U.S.C. § 1332(a)(2) because this action is between citizens of Florida and a foreign country and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs at least because Defendant's use of the SYMPHONY and ACADEMY marks have each damaged Plaintiffs at least in the amount of \$75,000 or more.

10. Defendant is subject to the personal jurisdiction of this Court because Defendant has purposely directed its activities at residents of Florida and the claims arise out of and/or relate to Defendant's activities in Florida: (1) Upon information and belief, Defendant is currently bidding on a project to sell infringing chairs at the Dr. Phillips Center for the Performing Arts at 445 S. Magnolia Ave, Orlando, FL 32801; (2) Upon information and belief, Defendant has sales operations or salespersons operating in Florida at least because Defendant has sold or bid on projects in Sarasota, Orlando and Daytona, Florida; (3) Upon information and belief, Defendant is doing business in Florida, namely Defendant sold chairs to the Daytona Speedway (Exhibit 1); (4) Upon information and belief, Defendant has installed, contracted with or hired persons to install and/or assemble chairs, including the infringing chairs, in Florida; (5) Upon information and belief, Defendant has in the past been registered to do business in Florida in that Defendant Seating International Incorporated has an inactive registration that was revoked for failure to file an annual report (Exhibit 2); (6) Upon information and belief, Defendant has bid on a seating project in Sarasota Florida for the State College of Florida Manatee – Sarasota for a job at the Neel Performing Arts Center (Exhibit 3); (7) Upon information and belief, Defendant imports its infringing chairs into the United States and such chairs are sold in Florida, a photograph of at least one example of a chair imported into the US which is in Orlando is enclosed (Exhibit 4); and (8) Upon information and belief,

Defendant sends representatives from its offices in Canada to Florida and/or communicates with Florida persons to bid on projects in Florida, provide samples and contract for and/or supervise installation in Florida all for its infringing chairs.

11. Venue is proper under 28 U.S.C. §1391(b) and 28 U.S.C. §1391(c)(3) because Defendant is subject to personal jurisdiction in Florida and the asserted patents and exclusive rights thereunder are owned by Plaintiffs in this District, furthermore, Defendant is organized in Canada thus, to the extent Defendant does not reside in the United States and/or a substantial part of the events or omissions giving rise to the claim did not occur in this District, venue is proper under 28 U.S.C. § 1391(b)(3) and/or 28 U.S.C. §1391(c)(3).

STATEMENT OF FACTS

THE PATENTS

12. On March 2, 2004, the ‘834 patent, entitled “Seat Connection Mechanism,” was duly and legally issued by the U.S. Patent and Trademark Office (“PTO”). The sole inventor, Alvaro Mauricio Olarte, assigned his rights to Multiple LLC who subsequently assigned the ‘834 patent to Design Olarte, LLC who then assigned the ‘834 patent to Plaintiff, Series International, LLC. A copy of the ‘834 patent is attached hereto as Exhibit 5.

13. On September 7, 2004, the ‘549 patent, entitled “Seat Connection Mechanism,” was duly and legally issued by the PTO. The sole inventor, Alvaro Mauricio Olarte, assigned his rights to Multiple LLC who subsequently assigned the ‘549 patent to Design Olarte, LLC who then assigned the ‘549 patent to Plaintiff, Series International, LLC. A copy of the ‘549 patent is attached hereto as Exhibit 6.

14. Design Olarte, LLC is also owned and/or controlled by the Alvaro Mauricio Olarte.

15. The ‘549 patent is a divisional of the ‘834 patent.

16. Series International, LLC owns all rights and title in and to the Asserted Patents including the rights to sue and recover for all past, present and future damages.

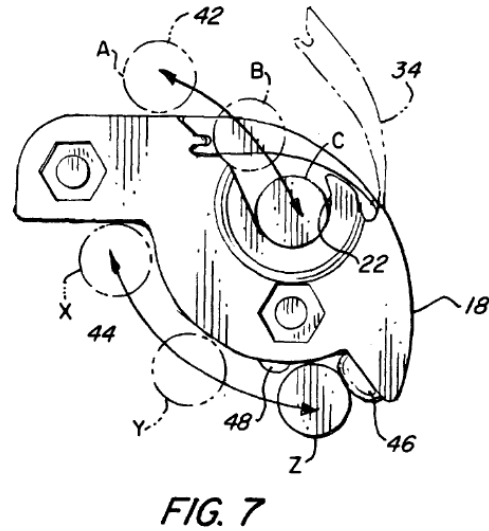
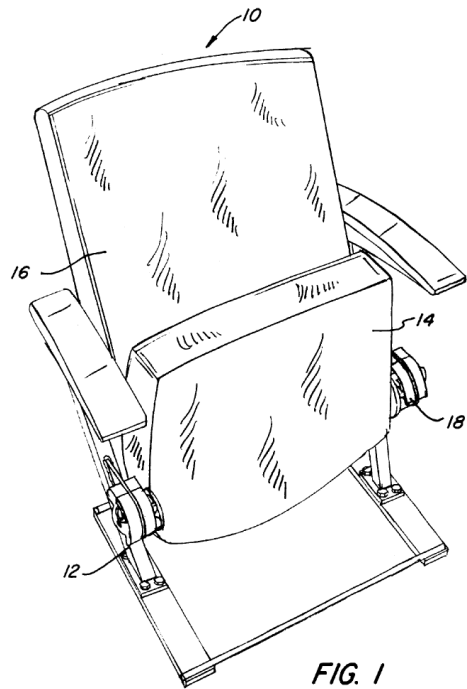
17. Series, LLC is and has been the exclusive licensee of the Asserted Patents at least since 2008 and enjoys a right to sue for infringement. This exclusive license was and continues to be in effect during the entire term of the Asserted Patents including when Design Olarte, LLC owned title as recorded with the U.S. Patent Office.

18. Plaintiffs have both suffered damages due to Defendant's infringement of the Asserted Patents and have an actionable right to recover said loss.

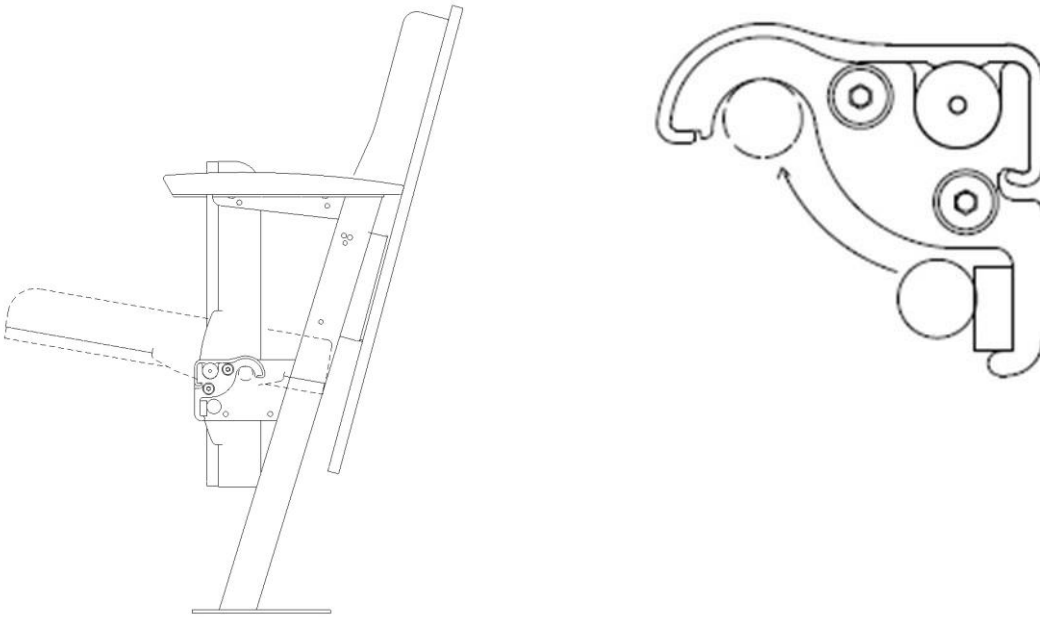
19. Upon information and belief, Defendant has knowledge of the Asserted Patents at least because Plaintiffs' products and/or product packaging are marked with the numbers of the Asserted Patents.

20. Defendant has been and continues to sell infringing chairs that infringe at least one claim of each of the asserted patents, including at least the line of chairs referred to as "Symphony" and "Academy." To the extent an entity other than Ducharme assembles and/or installs the infringing chairs, Ducharme has contributed to and/or induced infringement by selling components of and or having such chairs installed.

21. The Asserted Patents describe and claim a seat assembly and a seat connection mechanism. Figures from the Asserted Patents illustrating embodiments of the seat connection mechanism and the seat assembly are provided below:



22. Illustrations of a seat assembly and seat connection mechanism (hereinafter referred to as the “Mechanism”) sold and/or offered for sale by Defendant are provided below, upon information and belief, these two drawings in this paragraphs were created by or for Defendant and accurately represent the Mechanism, furthermore officers and/or employees of Plaintiff(s) have inspected sample products of Defendant and obtained video evidence that confirms that the below drawings accurately represents the Mechanism used by Defendant in its chairs:



23. Upon information and belief, Defendant's seat assemblies and Mechanism infringe one or more claims of the Asserted Patents.

24. Upon information and belief, Defendant has and continues make, use, sell, offer to sale, import, supply, and/or cause the supply of the Mechanism and seat assemblies having the Mechanism ("the infringing activities") in violation of the Asserted Patents without the authorization of Plaintiffs.

25. Upon information and belief, Defendant has sold seat assemblies having the Mechanism to a number of theaters and event spaces in the United States, including but not limited to: The alley Theater in Houston, TX, The Cape Fear Performing Arts Center, Cape Fear NC, the Cincinnati Music Hall, Cincinnati OH, the Oceanside Theater, San Diego CA, The Hancher Auditorium, Iowa City, IA, the University of Iowa School of Music, University of Colorado, Colorado Springs, CO and the Prince George and Queen Ann Center in Maryland.

26. Defendant's infringement of the Asserted Patents is continuing and Defendant is

currently bidding directly against Plaintiffs' patented seat assemblies with its infringing seating assemblies for a project in Orlando.

THE TRADEMARKS

27. Plaintiffs and its predecessors and/or shareholders have been in the business of selling chairs since at least as early as 1982.

28. Since at least as early as 1999, Plaintiffs and/or its predecessors in interest have been using the ACADEMY mark commercially in connection with seating products, particularly, Multiple, LLC began use of the ACADEMY mark in 1999 and Series, LLC has continued use of the ACADEMY mark since such mark was acquired from Multiple, LLC in 2008. Series, LLC has continued use of the ACADEMY mark since 2008 and such rights were thereafter assigned to Series International, LLC with Series, LLC retaining an exclusive license in the United States.

29. Since at least as early as 2004, Plaintiffs and/or its predecessors in interest have been using the SYMPHONY mark commercially in connection with seating products, with Multiple, LLC having acquired the SYMPHONY mark via acquisition from JG Seating Inc. in 2004, and Series, LLC having acquired and continued use of the SYMPHONY mark since 2008. Rights to the SYMPHONY mark were thereafter assigned to Series International, LLC with Series, LLC retaining an exclusive license in the United States.

30. The ACADEMY and SYMPHONY marks ("Plaintiff Marks") have been an important part of Plaintiffs' brand identity for many years and, upon information and belief, Plaintiff, Series International, LLC is the sole lawful owner of the Plaintiff Marks and Series, LLC is the exclusive licensee thereof.

31. The ACADEMY and SYMPHONY marks are registered in the State of Florida.

The ACADEMY mark has been granted FL. Reg. No. T17000000088 (“Registered ACADEMY Mark”). The SYMPHONY mark has been granted FL. Reg. No. T17000000089 (“Registered SYMPHONY Mark”). Copies of the Florida Secretary of State online records are attached as Exhibits 7 and 8.

32. The Plaintiff Marks are inherently distinctive and have acquired distinctiveness and secondary meaning through their continuous use in connection with chairs, particularly stadium, theater and event space seating.

33. Upon information and belief, Defendant is using SYMPHONY for a line of chairs competitive with Plaintiff, Series, LLC’s SYMPHONY product (see Exhibit 9).

34. Upon information and belief, Defendant is using ACADEMY for a line of chairs competitive with Plaintiff, Series, LLC’s ACADEMY product and Defendant began such use on or around May 12, 2016 as evidenced by the website screenshot at Exhibit 10 indicating “NEW PRODUCT: THE ACADEMY CHAIR Posted May 12, 2016” (see Exhibit 10).

35. Defendant’s products and Plaintiffs’ products are supplied through identical commercial channels and targeted at the same or substantially overlapped consumer groups because both are related to chairs, and particularly theater, stadium and event space seating.

36. Upon information and belief, Defendant’s SYMPHONY chairs are sold and/or marketed in Florida including, for example, to the Dr. Phillips Center for the Performing Arts at 445 S. Magnolia Ave, Orlando, FL 32801.

37. Upon information and belief, Defendant’s ACADEMY chairs are sold and/or marketed in Florida.

38. Upon information and belief, Defendant adopted the SYMPHONY and ACADEMY chairs with full knowledge of Plaintiffs’ use thereof and rights thereto.

39. Defendant's use of the SYMPHONY and ACADEMY marks is likely to cause confusion, mistake or deception among the public who will be confused, mistaken and deceived into believing that Defendant's products labeled with the SYMPHONY and ACADEMY marks are sponsored by, affiliated with, and/or authorized by Plaintiffs.

40. Upon information and belief, Defendant's use of the SYMPHONY and ACADEMY marks has misappropriated and continues to misappropriate the goodwill that Plaintiffs have built in its usage of the SYMPHONY and ACADEMY marks.

41. Upon information and belief, Defendant's activities have caused and continue to cause irreparable injury to Plaintiffs' reputation and goodwill.

42. Upon information and belief, Defendant has profited and continues to profit from its unlawful acts.

43. Upon information and belief, Defendant will continue to commit the acts complained of herein unless enjoined.

44. Upon information and belief, Defendant's use of the SYMPHONY and ACADEMY marks has mislead and, if not enjoined by this Court, will continue misleading the public and causing irreparable damage and harm to Plaintiffs and the public.

CAUSES OF ACTION

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,698,834

45. Plaintiffs repeat and reallege the allegations contained in paragraphs 1-26 of its Complaint and incorporates them herein by reference.

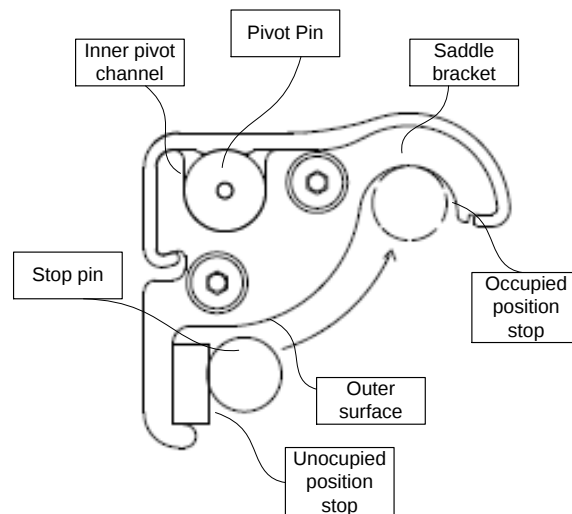
46. The '834 patent describes and claims a seat assembly and seat connection mechanism that allows a seat to pivot.

47. Upon information and belief, based on preliminary information available at the time of this Complaint, Defendant has and continues to infringe at least independent claims 1,

20, 33, and 43 of the '834 patent, and a number of claims which depend therefrom.

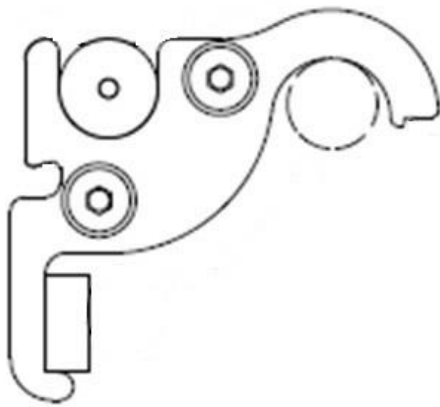
48. Independent claim 1 of the '834 patent is directed to a seat connection mechanism and requires, *inter alia*, a saddle bracket portion comprising an inner pivot channel, an occupied position stop, an unoccupied position stop, and an outer surface which extends between the occupied position stop and the unoccupied position stop, and a pin portion comprising a pivot pin and a stop pin protruding therefrom.

49. These elements of claim 1 of the '834 patent are found in the Mechanism as shown below:

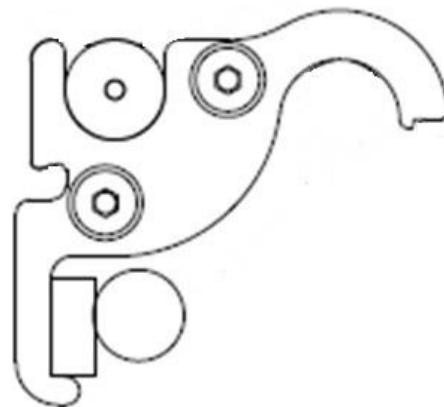


50. Claim 1 of the '834 patent further requires, *inter alia*, that the pivot pin and the stop pin are positioned such that, and are spaced apart by a distance such that, (1) when the pin portion is angled with respect to the saddle bracket portion at an insertion angle, the stop pin is positionable adjacent to the outer surface of the saddle bracket portion and the pivot pin is insertable into and removable from the inner pivot channel, and such that (2) when the pin portion is angled with respect to the saddle bracket portion at an angle other than the insertion angle, the pivot pin is retained in the inner pivot channel.

51. These configurations (1) and (2) are illustrated in the Mechanism below:



Configuration (1)



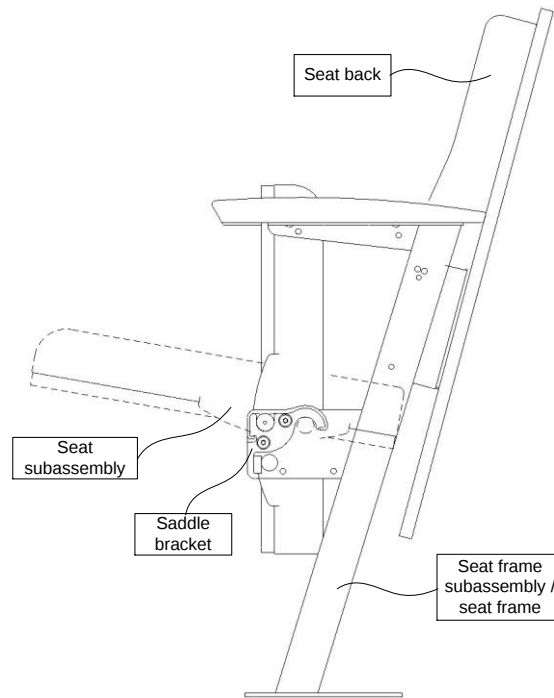
Configuration (2)

52. Claim 1 further requires that, *inter alia*, once the pivot pin is inserted into the inner pivot channel, the pin portion is pivotable with respect to the saddle bracket portion from an occupied position where the stop pin abuts the occupied position stop to an unoccupied position where the stop pin abuts the unoccupied position stop. This pivotable motion is illustrated in the Mechanism by the arrow in the figure of paragraph 49.

53. Upon information and belief, as shown above, independent claim 1 of the '834 patent is infringed by Defendant's Mechanism either literally or under the doctrine of equivalents.

54. Independent claim 20 of the '834 patent is directed to a seat assembly and requires, *inter alia*, a seat frame subassembly comprising a seat frame, a seat back, and a saddle bracket portion.

55. These elements of claim 20 of the '834 patent are found in Defendant's seat assembly as shown below:



56. Claim 20 further requires, *inter alia*, that the saddle bracket portion has an inner pivot channel, an occupied position stop, an unoccupied position stop, and an arc-shaped outer surface which extends between the occupied position stop and the unoccupied position stop. These elements are found in Defendant's seat assembly as shown above in the figure of paragraph 49.

57. Claim 20 further requires, *inter alia*, a seat subassembly with a seat and a pin portion, the pin portion including a pivot pin and a stop pin protruding therefrom. These elements are found in Defendant's seat assembly as shown above in the figures of paragraphs 49 and 55.

58. Claim 20 further requires, *inter alia*, wherein the pivot pin and the stop pin are positioned such that, and are spaced apart by a distance such that, (1) when the seat subassembly is angled with respect to the seat frame subassembly at an insertion angle, the stop pin is positionable adjacent to the outer surface of the saddle bracket portion and the pivot pin

is insertable into and removable from the inner pivot channel, and such that (2) when the seat subassembly is angled with respect to the seat frame subassembly at an angle other than the insertion angle, the pivot pin is retained in the inner pivot channel. These configurations are found in Defendant's seat assembly as shown above in the figure of paragraph 51.

59. Claim 20 further requires, *inter alia*, that once the pivot pin is inserted into the inner pivot channel, the seat subassembly is pivotable with respect to the seat frame subassembly from an occupied position where the stop pin abuts the occupied position stop and where the seat is substantially perpendicular to the seat back to an unoccupied position where the stop pin abuts the unoccupied position stop and where the seat is substantially parallel to the seat back. These elements are found in Defendant's seat assembly as shown above in the figures of paragraphs 49 and 55.

60. Upon information and belief, as shown above, independent claim 20 of the '834 patent is infringed by Defendant's seat assembly.

61. Independent claim 33 of the '834 patent is directed to a seat connection mechanism and requires, *inter alia*, a saddle bracket portion comprising an inner pivot channel and an outer surface, a pin portion with a first pin and a second pin protruding therefrom. The first pin and the second pin are positioned such that, and are spaced apart by a distance such that, when the pin portion is angled with respect to the saddle bracket portion at an insertion angle, the second pin is positionable adjacent to the outer surface of the saddle bracket portion and the first pin is insertable into and removable from the inner pivot channel, and such that when the pin portion is angled with respect to the saddle bracket portion at an angle other than the insertion angle, the first pin is retained in the inner pivot channel.

62. These limitations of claim 33 are found in the Mechanism as shown above in the

figures of paragraphs 49 and 51.

63. Upon information and belief, as shown above, independent claim 33 of the '834 patent is infringed by Defendant's seat assembly.

64. Independent claim 43 of the '834 patent is directed to a seat connection mechanism and requires, *inter alia*, a saddle bracket portion with an inner pivot channel, a pin portion with a pin protruding therefrom. When the pin portion is angled with respect to the saddle bracket portion at an insertion angle, the pin is insertable into and removable from the inner pivot channel, and such that when the pin portion is angled with respect to the saddle bracket portion at an angle other than the insertion angle, the pin is retained in the inner pivot channel.

65. These limitations of claim 43 are found in the Mechanism as shown above in the figures of paragraphs 49 and 51.

66. Upon information and belief, as shown above, independent claim 43 of the '834 patent is infringed by Defendant's seat assembly.

67. Therefore, upon information and belief, Defendant has directly infringed, contributed to infringement, and/or induced infringement of one or more claims of the '834 patents pursuant to 35 U.S.C. § 271 *et. seq.* by making, using, selling, offering for sale, importing, supplying, and/or causing the supply of the infringing chairs comprising the Mechanism, which infringe one or more claims of the '834 patent, without the authorization of Plaintiffs.

68. Plaintiffs have been damaged by the loss of sales and customers by Defendant's infringement of the '834 patent, and claims all damages, including but not limited to lost profits and reasonable royalties, to which it is entitled.

69. Plaintiffs have also been irreparably damaged by Defendant's continued sale of the infringing chairs.

70. Defendant's continued infringement is willful because Defendant has actual knowledge of the asserted patents and has continued infringement in willful disregard to Plaintiff's rights.

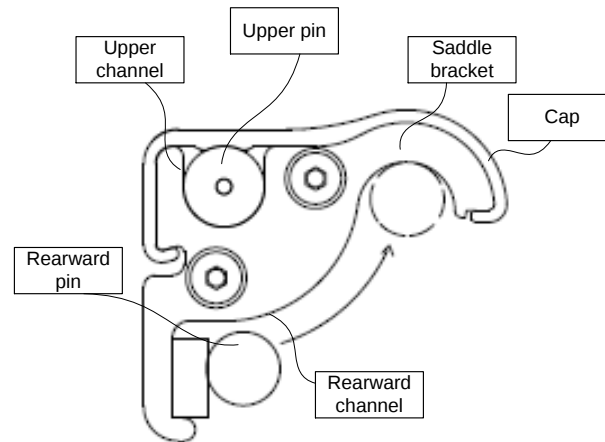
COUNT II – INFRINGEMENT OF U.S. PATENT NO. 6,786,549

71. Plaintiffs repeat and reallege the allegations contained in paragraphs 1-26 of its Complaint and incorporates them herein by reference.

72. Upon information and belief, based on preliminary information available at the time of this Complaint, Defendant has and continues to infringe at least independent claim 1 of the '549 patent, and a number of claims which depend therefrom.

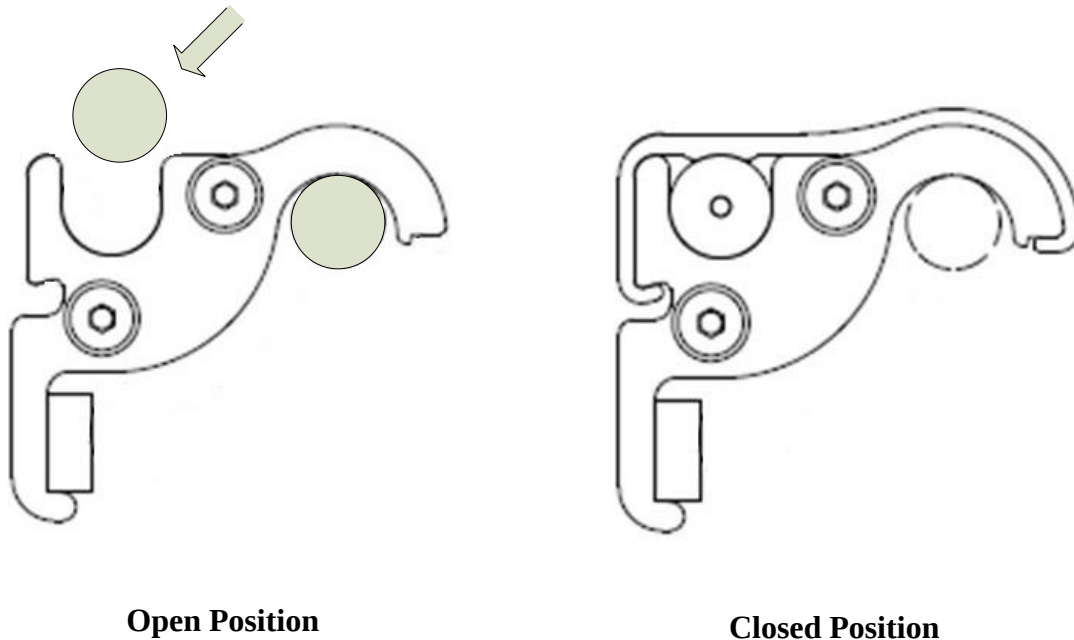
73. Independent claim 1 of the '549 patent is directed to a seat connection mechanism and requires, *inter alia*, a saddle bracket portion having an upper channel and a rearward channel, and having a protective cap hingedly connected thereto adjacent the upper channel, and a pin portion comprising an upper pin and a rearward pin protruding therefrom.

74. These elements of claim 1 of the '549 patent are found in the Mechanism as shown below:



75. Claim 1 of the '549 patent further requires that, *inter alia*, the upper pin and the rearward pin are positioned such that, and are spaced apart by a distance such that, when said rearward pin is inserted into the rearward channel with the pin portion being tilted upwardly, the pin portion is pivotable downwardly such that upper pin is insertable into the upper channel, and wherein the protective cap is movable from an open position wherein the upper pin is insertable into the upper channel to a closed position wherein the protective cap inhibits objects from falling into the upper channel and inhibits removal of the upper pin from the upper channel.

76. These elements of claim 1 of the '549 patent are found in the Mechanism as shown below:



77. Upon information and belief, as shown above, independent claim 1 of the ‘549 patent is infringed by Defendant’s Mechanism either literally or under the doctrine of equivalents.

78. Therefore, upon information and belief, Defendant has directly infringed, contributed to infringement, and/or induced infringement of one or more claims of the ‘834 patents pursuant to 35 U.S.C. § 271 *et. seq.* by making, using, selling, offering for sale, importing, supplying, and/or causing the supply of the infringing chairs comprising the Mechanism, which infringes one or more claims of the ‘549 patent, without the authorization of Plaintiffs.

79. Plaintiffs have been damaged by the loss of sales and customers by Defendant’s infringement of the ‘549 patent, and claims all damages, including but not limited to lost profits and reasonable royalties, to which it is entitled.

80. Plaintiffs have also been irreparably damaged by Defendant’s continued sale of

the infringing chairs and Mechanisms.

81. Defendant's continued infringement is willful because Defendant has actual knowledge of the asserted patents and has continued infringement in willful disregard to Plaintiffs' rights.

**COUNT III – FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION
UNDER THE LANHAM ACT (SYMPHONY)**

82. Plaintiffs repeat and reallege the allegations contained in paragraphs 1-11 and 27-44 of its Complaint and incorporate them herein by reference.

83. In 2004 Multiple, LLC purchased certain assets from JG Seating, Inc., a Pennsylvania corporation and such assets included a line of chairs referred to as SYMPHONY along with all intellectual property rights thereto.

84. Thereafter, Plaintiff, Series, LLC acquired SYMPHONY mark in 2008 from Multiple, LLC and assigned said mark to Series International, LLC with Series, LLC retaining an exclusive license thereto.

85. Defendant's use of the SYMPHONY mark is likely to cause confusion or cause mistake and deceive as to the origin of Defendant's goods in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

86. Upon information and belief, Defendant adopted and used the SYMPHONY mark with the knowledge that it was misleading, and deceptive, and with the intent to compete unfairly with Plaintiffs and to misappropriate the goodwill of Plaintiffs.

87. As a result of Defendant's activities, the public is likely to be confused, misled, or deceived about the source of Defendant's goods, and Plaintiffs are now and will continue to suffer irreparable injury to its goodwill and reputation, for which it has no adequate remedy at law.

88. Upon information and belief, at the time of Defendant's adoption and first use of the SYMPHONY mark, Defendant knew or should have known of Plaintiff's existing rights in the SYMPHONY mark because of prior communications between Plaintiffs and Defendant.

89. The intentional nature of Defendant unlawful acts renders this an exceptional case within the meaning of 15 U.S.C. § 1117(a).

COUNT IV – COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION (SYMPHONY)

90. Plaintiffs repeat and reallege the allegations contained paragraphs 1-11, 27-44 and 83-84 of its Complaint and incorporates them herein by reference.

91. Defendant's use of the SYMPHONY marks on its goods is misleading, confusing to the public, and likely causing injury to Plaintiffs' public image and reputation.

92. As a result of Defendant's use of the SYMPHONY marks on its goods, the public is likely to falsely associate the attributes, characteristics, and reputation of Plaintiffs' goods with those of Defendant's.

93. Upon information and belief, Defendant's acts are willful.

94. As a result of Defendant's acts, Plaintiffs have suffered irreparable harm, for which it has no adequate remedy at law.

95. The foregoing acts constitute trademark infringement and unfair competition under the common law of the State of Florida.

COUNT V – STATE LAW TRADEMARK INFRINGEMENT (SYMPHONY)

96. Plaintiffs repeat and reallege the allegations contained in the paragraphs 1-11, 27-44 and 83-84 of its Complaint and incorporates them herein by reference.

97. Defendant's use of the SYMPHONY marks on its goods is misleading, confusing to the public, and likely causing injury to Plaintiffs' public image and reputation.

98. As a result of Defendant's use of the SYMPHONY marks on its goods, the public is likely to falsely associate the attributes, characteristics, and reputation of Plaintiffs' goods with those of Defendant's.

99. Upon information and belief, Defendant's acts are willful.

100. As a result of Defendant's acts, Plaintiffs have suffered irreparable harm, for which it has no adequate remedy at law.

101. Defendant, in violation of § 495, Fla. Stat. (2010) et seq., specifically § 495.131 thereof, has used a colorable imitation of Plaintiffs' Registered SYMPHONY Mark in connection with the sale, offering for sale, distribution, and/or advertising of chairs in connection with which such use is likely to cause confusion, to cause mistake, or to deceive with respect to Plaintiffs' rights in the Registered SYMPHONY Mark.

102. The foregoing acts constitute trademark infringement under the laws of the State of Florida.

**COUNT VI – FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION
UNDER THE LANHAM ACT (ACADEMY)**

103. Plaintiffs repeat and reallege the allegations contained in the paragraphs 1-11 and 27-44 of its Complaint and incorporate them herein by reference.

104. Defendant's use of the ACADEMY mark is likely to cause confusion or cause mistake and deceive as to the origin of Defendant's goods in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

105. Upon information and belief, Defendant adopted and used the ACADEMY mark with the knowledge that it was misleading, and deceptive, and with the intent to compete unfairly with Plaintiffs and to misappropriate the goodwill of Plaintiffs.

106. As a result of Defendant's activities, the public is likely to be confused, misled,

or deceived about the source of Defendant's goods, and Plaintiffs are now and will continue to suffer irreparable injury to its goodwill and reputation, for which it has no adequate remedy at law.

107. Upon information and belief, at the time of Defendant's adoption and first use of the ACADEMY mark, Defendant knew or should have known of Plaintiffs' existing rights in the ACADEMY mark because of prior communications between Plaintiffs and Defendant.

108. The intentional nature of Defendant unlawful acts renders this an exceptional case within the meaning of 15 U.S.C. § 1117(a).

COUNT VII – COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION (ACADEMY)

109. Plaintiffs repeats and realleges the allegations contained in paragraphs 1-11 and 27-44 of its Complaint and incorporates them herein by reference.

110. Defendant's use of the ACADEMY marks on its goods is misleading, confusing to the public, and likely causing injury to Plaintiff's public image and reputation.

111. As a result of Defendant's use of the ACADEMY marks on its goods, the public is likely to falsely associate the attributes, characteristics, and reputation of Plaintiffs' goods with those of Defendant's.

112. Upon information and belief, Defendant's acts are willful.

113. As a result of Defendant's acts, Plaintiffs have suffered irreparable harm, for which it has no adequate remedy at law.

114. The foregoing acts constitute trademark infringement and unfair competition under the common law of the State of Florida.

COUNT VIII – STATE LAW TRADEMARK INFRINGEMENT (ACADEMY)

115. Plaintiffs repeat and reallege the allegations contained in paragraphs 1-11 and

27-44 of its Complaint and incorporates them herein by reference.

116. Defendant's use of the ACADEMY marks on its goods is misleading, confusing to the public, and likely causing injury to Plaintiff's public image and reputation.

117. As a result of Defendant's use of the ACADEMY marks on its goods, the public is likely to falsely associate the attributes, characteristics, and reputation of Plaintiff's goods with those of Defendant's.

118. Upon information and belief, Defendant's acts are willful.

119. As a result of Defendant's acts, Plaintiff has suffered irreparable harm, for which it has no adequate remedy at law.

120. Defendant, in violation of § 495, Fla. Stat. (2010) et seq., specifically § 495.131 thereof, has used a colorable imitation of Plaintiffs' rights in the Registered ACADEMY Mark in connection with the sale, offering for sale, distribution, and/or advertising of chairs in connection with which such use is likely to cause confusion, to cause mistake, or to deceive with respect to Plaintiffs' Registered ACADEMY Mark.

121. The foregoing acts constitute trademark infringement under the laws of the State of Florida.

REQUESTS FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment for Plaintiff and award Plaintiff the following relief:

- a. That a judgment be entered that Defendant has directly infringed, actively induced others to infringe, and/or contributorily infringed the '834 patent and the '549 patent.
- b. That Plaintiff be awarded damages suffered by reason of infringements by

Defendant, including lost profits, pursuant to 35 U.S.C. § 284, together with prejudgment interest.

c. That Plaintiff be awarded treble damages due to Defendant's willful infringement of the '834 and '549 patents.

d. That Defendant is preliminarily and permanently enjoined from further infringement of the '834 and '549 patents.

e. That Defendant is preliminarily and permanently enjoined from using SYMPHONY and ACADEMY in connection with any of its products or services.

f. That a judgment be entered that Defendant has falsely designated the origin of its goods and unfairly competed with Plaintiff by the acts complained of herein in violation of in violation of 15 U.S.C. § 1125(a).

g. That a judgment be entered that the acts of Defendant constitute unfair competition and trademark infringement in violation of the common law of the State of Florida.

h. That Defendant be ordered to account and pay to Plaintiff all profits derived as a result of the activities complained of herein.

i. That Defendant be ordered to pay to Plaintiff damages sustained as a result of the activities complained of herein.

j. That Defendant be ordered to pay increased damages due to its willful infringement.

k. That Plaintiff be awarded all profits of Defendant and all other damages suffered by Plaintiff by reason of Defendant's sale of its SYMPHONY chairs under § 495.141, Fla. Stat. (2010).

- l. That Plaintiff be awarded all profits of Defendant and all other damages suffered by Plaintiff by reason of Defendant's sale of its ACADEMY chairs under § 495.141, Fla. Stat. (2010).
- m. That Plaintiff be awarded reasonable attorneys' fees and costs incurred in this action.
- n. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

In accordance with Federal Rules of Civil Procedure 38, Plaintiff hereby respectfully demands a trial by jury of all issues and claims to triable.

Dated: March 10, 2017

Respectfully submitted,

/s/ David M. Stahl
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***Attorneys for Plaintiffs,
Series International, LLC and Series LLC.***

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2017, a true and correct copy of the foregoing AMENDED COMPLAINT was served on Defendant via regular U.S. Mail and express courier at the following address.

Ducharme Seating International (1991) Inc.
d/b/a Ducharme Seating
9275 rue le Royer Saint-Léonard, Québec
Canada H1P 3H711.

March 10, 2017

/s/ David M. Stahl
David M. Stahl