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JUDGE ST. EVE

MAGISTRATE JUDGE COLE

EDA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

WEBER-STEPHEN PRODUCTS CO., an Illinois
Corporation,

Plaintiff,

v.

PICNIC TIME, INC., a California Corporation

Defendant.

Case No: _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

The Plaintiff, Weber-Stephen Products Co. ("Weber"), an Illinois corporation, with offices at 200 East Daniels Road, Palatine, IL 60067, through its attorneys, Baker & McKenzie LLP hereby complain against the Defendant Picnic Time, Inc. ("Picnic Time"), a California Corporation with offices at 5131 Maureen Lane, Moorpark, CA 93021, stating as follows:

THE PARTIES

1. Plaintiff Weber is an Illinois corporation headquartered in Palatine, Illinois. Weber manufactures, sells and distributes grill products in the United States, including in the State of Illinois, and including in this District.

2. Weber is the owner of and has the right to sue for infringement of U.S. Patent Nos. 6,910,476 (Exhibit A), 6,976,485 (Exhibit B), and D503,587 (Exhibit C).

3. Upon information and belief, Defendant Picnic Time is a California corporation and has a place of business at 5131 Maureen Lane, Moorpark, CA 93021.

4. Upon information and belief, Picnic Time is engaged in the manufacture, use, importation, offering for sale and/or sale of grills and other products.

THE ACCUSED PRODUCT

5. Upon information and belief, Picnic Time manufactures, uses, imports into the United States, offers for sale, and/or sells a grill called the Portagrillo (model # 777-00-175), a photo and description of which are attached hereto as Exhibit D.

6. Upon information and belief, Picnic Time's Portagrillo is offered for sale and is sold in the United States and in this district, for at least the reason that Picnic Time advertises on its website (i.e., <http://www.picnictime.com/retailer.html>) that the Portagrillo may be purchased on-line from within this district. See Exhibits D and E.

7. Upon information and belief, Picnic Time directly ships product to customers within this district. See Exhibit F.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1337, and/or 1338 because this matter arises under the United States patent statutes for infringement of United States patents.

9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1400(b), 1391(b) and/or 1391(c) because Picnic Time is subject to personal jurisdiction in this district and therefore resides in this District pursuant to 28 U.S.C. § 1391(c) because Portagrillo is offered for sale in this district.

INFRINGEMENT OF U.S. PATENT 6,910,476

10. On, June 28, 2005, the United States Patent Office granted U.S. Patent 6,910,476 (“the ‘476 patent”) to Weber. A copy of the ‘476 patent is attached hereto as Exhibit A.

11. By manufacturing, importing, using, offering for sale and/or selling the Portagrillo, such as the one shown in Exhibit D, Picnic Time has infringed and is continuing to infringe at least one claim of the ‘476 patent in violation of 35 U.S.C. § 271.

12. By reason of the ongoing and continuous infringement by Picnic Time of the ‘476 patent in violation of 35 U.S.C. § 271, Weber is entitled to an entry of an injunction against Picnic Time, preventing further infringement of Weber’s patent rights, pursuant to 35 U.S.C. § 283.

13. Weber has suffered and is continuing to suffer damages as a result of Picnic Time’s infringement of the ‘476 patent in violation of 35 U.S.C. § 271, and Weber is entitled to compensation or other damages as allowed to the full extent of the law, pursuant to 35 U.S.C. § 284.

INFRINGEMENT OF U.S. PATENT 6,976,485

14. On, December 20, 2005, the United States Patent Office granted U.S. Patent 6,976,485 (“the ‘485 patent”) to Weber. A copy of the ‘485 patent is attached hereto as Exhibit B.

15. By manufacturing, importing, using, offering for sale and/or selling the Portagrillo, such as the one shown in Exhibit D, Picnic Time has infringed and is continuing to infringe at least one claim of the ‘485 patent in violation of 35 U.S.C. § 271.

16. By reason of the ongoing and continuous infringement by Picnic Time of the '485 patent in violation of 35 U.S.C. § 271, Weber is entitled to an entry of an injunction against Picnic Time, preventing further infringement of Weber's patent rights, pursuant to 35 U.S.C. § 283.

17. Weber has suffered and is continuing to suffer damages as a result of Picnic Time's infringement of the '485 patent in violation of 35 U.S.C. § 271, and Weber is entitled to compensation or other damages as allowed to the full extent of the law, pursuant to 35 U.S.C. § 284.

INFRINGEMENT OF U.S. PATENT D503,587

18. On, April 5, 2005, the United States Patent Office granted U.S. Patent D503,587 ("the '587 patent") to Weber. A copy of the '587 patent is attached hereto as Exhibit C.

19. By manufacturing, importing, using, offering for sale and/or selling the Portagrillo, such as the one shown in Exhibit D, Picnic Time has infringed and is continuing to infringe the '587 patent in violation of 35 U.S.C. § 271.

20. By reason of the ongoing and continuous infringement by Picnic Time of the '587 patent in violation of 35 U.S.C. § 271, Weber is entitled to an entry of an injunction against Picnic Time, preventing further infringement of Weber's patent rights, pursuant to 35 U.S.C. § 283.

21. Weber has suffered and is continuing to suffer damages as a result of Picnic Time's infringement of the '587 patent in violation of 35 U.S.C. § 271, and Weber is entitled to compensation or other damages as allowed to the full extent of the law, pursuant to 35 U.S.C. §§ 284 and/or 289.

REQUEST FOR RELIEF

The Plaintiffs hereby request an entry of relief against Picnic Time as follows:

(a) Entry of judgment that Picnic Time, by reason of the manufacture, use, importation, offer for sale, and/or sale of the Portagrillo grills, infringes the patents asserted herein in violation of 35 U.S.C. § 271(a).

(b) Awarding the Weber damages to the full extent permitted by 35 U.S.C. § 284 and 289, by reason of Picnic Time's infringement of the patents asserted herein.

(c) Entry of a permanent injunction against Picnic Time, barring and enjoining further manufacture, use, importation, offer for sale, sale, and distribution in the United States of all infringing products.

DEMAND FOR JURY

Plaintiffs request that all issues triable by a jury be so tried in this case.

(continued on next page)

Dated: July 24, 2008

BAKER & McKENZIE LLP

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List of Exhibits

- A U.S. Patent 6,910,476
- B U.S. Patent 6,976,485
- C U.S. Patent D503,587
- D Photo and Description of Accused Product (Picnic Time website)
- E Advertisement indicating that Portagrillo can be purchased online (Picnic Time website)
- F Advertisement indicating that Picnic Time ships directly to customers (Chef Resource website)