

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

HARMAR MOBILITY, LLC,

Plaintiff,

v.

BRUNO INDEPENDENT LIVING AIDS,
INC.

Defendant.

Case No:

Injunctive Relief Requested

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Harmar Mobility, LLC (“Harmar”), sues Defendant Bruno Independent Living Aids, Inc. (“Bruno”), and alleges as follows:

THE PARTIES

1. Plaintiff Harmar is a company organized and existing under the laws of the State of Delaware with its principal place of business at 2075 47th St., Sarasota, FL 34234. Harmar, *inter alia*, makes and/or sells mobility and accessibility products including transport scooters, vertical platform lifts, stair lifts, dumbwaiters, inclined platform lifts and auto lifts.

2. Since its founding in 1998, Harmar has consistently advanced the leading edge of mobility and accessibility technology by providing new and innovative solutions to the mobility and accessibility marketplace.

2. Upon information and belief, Defendant Bruno Independent Living Aids, Inc. is a Wisconsin corporation with a place of business at 1780 Executive Dr. Oconomowoc, WI 53066. Bruno makes, uses, sells and offers for sale mobility and accessibility systems,

including a product that Bruno refers to as the Joey scooter powerchair lift (Model: VSL-4400).

3. Upon information and belief, Bruno does business on a regular basis in Florida and in this District, including making, using, selling and/or offering for sale its Joey scooter powerchair lift (Model: VSL-4400) in Florida and this District that infringes Harmar's rights under the patent asserted in this Complaint.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and particularly 35 U.S.C. §§ 271 and 281. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). Personal jurisdiction over Bruno is proper in this Court because Bruno committed a tortious act in Florida by marketing and selling infringing products in Florida, which caused harm to Harmar in Florida, and because Bruno actively and regularly conducts business within the state of Florida.

5. Venue is proper in this District in accordance with 28 U.S.C. §§ 1391(b)-(c) and § 1400(b). Bruno sells and/or offers to sell its infringing Joey scooter powerchair lift to Bruno "factory-certified" distributors in this District, maintains internet portals for dealer businesses in this District, has a registered corporate agent in Florida and on information and belief conducts business from property in this District.

6. Venue is proper in this Division because Harmar's principal place of business is in Sarasota County, FL. M.D. Fla. L.R. 102(b)(2).

HARMAR'S PATENTED TECHNOLOGY

7. Harmar is a Sarasota-based industry-leading designer, manufacturer, and seller of mobility and accessibility products including transport scooters, vertical platform lifts, stair lifts, dumbwaiters, inclined platform lifts and auto lifts. Since its founding almost twenty years ago, Harmar has pushed the envelope of mobility and accessibility technology, providing new and innovative solutions to commercial and residential applications. Harmar has been awarded and is the owner of many patents relating to and covering its innovative solutions. One of those patents is asserted in this Complaint.

BRUNO'S INFRINGING PRODUCT

8. Upon information and belief, Bruno makes, uses, sells and offers for sale its auto lift that infringes Harmar's patented technologies. Bruno refers to its infringing product as the Joey (Model: VSL-4400). Bruno sells this product to dealers in direct competition with Harmar. The Joey scooter powerchair lift is illustrated below and is also shown in a brochure for the Joey which attached to this Complaint as Exhibit B.



COUNT 1 - INFRINGEMENT OF U.S. PATENT NO. 6,726,435

9. Harmar realleges and incorporates by reference the allegations stated in paragraphs 1-8 of this Complaint as if fully set forth herein.

10. On April 27, 2004, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,726,435 (“the ‘435 patent”) entitled “Lift for a Personal Mobility Vehicle or Wheelchair.” Harmar is the owner of the ‘435 patent, by virtue of assignment of all rights, title and interest to the ‘435 patent. Harmar marks its products in compliance with 35 U.S.C. § 287. A true and correct copy of the ‘435 patent is attached to this Complaint as Exhibit A.

11. Upon information and belief, Bruno manufactures, uses, offers to sell, sells, and/or imports its Joey scooter powerchair lift (Model: VSL-4400), that directly infringes, either literally or through the doctrine of equivalents, claims 1, 2, and 3 of ‘435 patent.

12. Exemplary claim 2 of the ‘435 patent recites:

A personal mobility vehicle lift for use in conjunction with a vehicle having a door opening and a floor comprising:

a generally horizontal platform structured to receive a personal mobility vehicle driven or rolled thereatop;

an elongated telescoping upright powered lift mechanism connected to said platform for raising and lowering said platform in an upright linear motion between a lower position in proximity to the ground and an upper position in proximity to the level of the floor when said platform is in a rearwardly position behind the vehicle;

an elongated stationary frame member structured for rigid connection atop, and oriented lengthwise to, the floor of the vehicle;

an elongated moveable frame member slidably or rollably connected to said stationary frame member for reciprocal fore and aft movement of said moveable frame member with respect to said stationary frame member and the floor;

said moveable frame member moveably connected to said vertical lift member for slidable or rollable linear fore and aft movement therebetween;

a drive mechanism operably connected between said stationary and moveable frame members and said lift member for controlling relative telescoping movement therebetween whereby, when said platform is in the upper position, said platform is controlledly moveable from the rearward position beyond the floor and the rear of the vehicle through the door opening to a forward position wherein said platform is positioned above and in close proximity to the stationary and moveable frame members and within the vehicle.

13. Bruno's scooter powerchair lift (Model: VSL-4400) constitutes a personal mobility vehicle lift for use in conjunction with a vehicle having a door opening and a floor including each and every element of at least claim 2 of the '435 patent, either literally or through the doctrine of equivalents, including:

a generally horizontal platform structured to receive a personal mobility vehicle driven or rolled thereatop;

an elongated telescoping upright powered lift mechanism connected to said platform for raising and lowering said platform in an upright linear motion between a lower position in proximity to the ground and an upper position in proximity to the level of the floor when said platform is in a rearwardly position behind the vehicle;

an elongated stationary frame member structured for rigid connection atop, and oriented lengthwise to, the floor of the vehicle;

an elongated moveable frame member slidably or rollably connected to said stationary frame member for reciprocal fore and aft movement of said moveable frame member with respect to said stationary frame member and the floor;

the moveable frame member moveably connected to said vertical lift member for slidable or rollable linear fore and aft movement therebetween;

a drive mechanism operably connected between said stationary and moveable frame members and said lift member for controlling relative telescoping movement therebetween whereby, when said platform is in the upper position,

said platform is controlledly moveable from the rearward position beyond the floor and the rear of the vehicle through the door opening to a forward position wherein said platform is positioned above and in close proximity to the stationary and moveable frame members and within the vehicle.

14. Bruno's acts of infringement have been without express or implied license by Harmar, are in violation of Harmar's rights, and will continue unless enjoined by this Court.

15. Bruno's acts of infringement have been willful and with knowledge of the '435 patent. Bruno has continued its infringement with knowledge of the '435 patent and in willful disregard of the '435 patent and the rights created thereunder.

16. Harmar has been and will continue to be irreparably harmed by Bruno's infringement of the '435 patent.

JURY DEMAND

17. Harmar demands a jury trial on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff HARMAR respectfully prays that:

A. Pursuant to 35 U.S.C. §271, this Court enter judgment that Bruno has been and is currently infringing the '435 patent;

B. This Court Order that Bruno and each of its officers, agents, servants, employees, assigns and successors in interest, those persons in active concert of participation with it who receive notice of the injunction, and others acting on its behalf, be preliminarily and permanently enjoined from infringing the '435 patent, including through use of the infringing products as well as making, selling or offering for sale the infringing products or engaging in infringing activities;

C. This Court Order that Bruno notify purchasers and users of the infringing products that the products infringe the '435 patent, and that Bruno recall all infringing products sold or otherwise distributed;

D. Bruno be directed to provide an accounting to determine the damages suffered by Harmar as a result of Bruno's infringing conduct, such damages including, but not limited to, Harmar's lost profits on sales or offers for sale of the infringing products, and in no event less than a reasonable royalty;

E. Bruno be directed to pay Harmar the amount of damages that Harmar has sustained as a result of Bruno's acts of patent infringement, and that such damages be trebled under 35 U.S.C. §284 as a result of any willful infringement of Harmar's '435 patent;

F. This be declared an exceptional case under 35 U.S.C. §285, and Harmar be awarded its attorneys' fees;

G. Bruno be directed to pay Harmar an award of pre-judgment interest, post-judgment interest, and costs of the suit; and

H. Harmar be granted such other further relief as the Court may deem proper and just.

Date: December 4, 2017

Respectfully submitted,

/s/David L. Luikart

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