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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

LILLEBABY, LLC,

Plaintiff,

v.

COLUMBUS TRADING PARTNERS USA,
INC. and CYBEX GMBH,

Defendants.

Case No. 1:19-10422

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff LILLEbaby, LLC, for its Complaint against Defendants Columbus Trading Partners USA, Inc. and Cybex GmbH (collectively, “Defendants”) alleges on its own knowledge and on information and belief as follows:

NATURE OF THE CASE

1. This Action seeks damages and injunctive relief for patent infringement.

PARTIES

2. Plaintiff LILLEbaby, LLC (“LILLEbaby”) is a limited liability company duly organized and existing under the laws of the State of Delaware with its principal place of business at 700 12th Street, Golden, Colorado 80401.

3. On information and belief, Defendant Columbus Trading Partners USA, Inc. (“CTP”) is a Delaware corporation, having a principal place of business and/or headquarters at 560 Harrison Avenue, Boston, Massachusetts 02118.

4. On information and belief, Defendant Cybex GmbH (“Cybex”) is a limited liability company duly organized and existing under the laws of Germany, having a principal place of business and headquarters at Riedingerstr. 18, 95448 Bayreuth, Germany.

5. On information and belief, Defendant CTP is a wholly owned subsidiary and/or affiliate of Defendant Cybex.

JURISDICTION AND VENUE

6. This is an Action for patent infringement arising under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.*

7. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Defendants due to Defendants’ continuous, systematic, and substantial contacts within Massachusetts including: (i) Defendant CTP resides in Massachusetts; (ii) at least a portion of the infringement alleged herein occurs in Massachusetts; (iii) Defendants are marketing, distributing and selling their products in the United States and in Massachusetts; and (iv) Defendants are regularly doing or soliciting business in

Massachusetts, engaging in other persistent courses of conduct in Massachusetts, and/or deriving substantial revenue from goods and services provided to individuals in Massachusetts.

9. By way of example, Defendants sell product including infringing, imported child carriers in the United States and Massachusetts through, *inter alia*, their own online store at <https://www.cybexonlineshop.com> and/or through online retailers.

10. Cybex's website also identifies—and directs consumers to—certain brick and mortar retail stores within Massachusetts that warehouse and sell Defendants' products—and where in turn—U.S. based consumers can make in-store purchases of those products. *See* <https://cybex-online.com/en-us/retailer>.

11. Moreover, Defendants import into the United States including Massachusetts, sell for importation and/or sell after importation product including infringing child carriers. Notably, the box, packaging and/or instruction manual for the certain infringing products, *i.e.*, the Cybex Yema product, states that the product is “Made For: Columbus Trading Partners USA Inc., 560 Harrison Avenue, Boston MA 02118,” as demonstrated in the photograph below.



12. Accordingly, on information and belief, Defendants' products are imported into Massachusetts from China, and distributed to retailers and customers throughout the United States from Massachusetts. Stated differently, Massachusetts is the hub of Defendants' distribution of infringing product.

13. Venue is appropriate in this District pursuant to 28 U.S.C. §§ 1391(b) and (c), and/or 28 U.S.C. § 1400(b). Upon information and belief, Defendants have transacted business in this District and have committed acts of patent infringement in this District as described in Paragraphs 8-11 above and described more fully below. Moreover, Defendant CTP has a regular and established place of business in Massachusetts and thus within this District.

FACTUAL BACKGROUND

14. Lisbeth Lehan, as a new mother, searched for a suitable child carrier after her first child was born. Unfortunately, she found available carriers wanting. Then-existing child carriers offered limited carrying positions and were quickly outgrown. In addition, they poorly distributed weight and were uncomfortable for both the child and transporting individual. Ms. Lehan purchased a carrier and tried it with her child. Unfortunately, her use of the carrier with her child caused her great discomfort.

15. Ms. Lehan's less than satisfactory experience with available child carriers led her to create innovative carriers that are sold by her company, LILLEbaby. The LILLEbaby carriers are adaptable both to the child's development stage and size, and a child may be carried in various positions, such as facing inward or outward, and on the transporting individual's front, hip or back, which improves weight distribution. An illustration of these various carrying positions reproduced below.



16. From its humble beginnings, LILLEbaby has grown to become one of the leading child carrier producers on the market. Since then, LILLEbaby has marketed, promoted, advertised and sold its child carriers and related products through multiple channels, including on its well-known website located at www.LILLEbaby.com.

17. The industry recognized the value of Ms. Lehan's innovation. Indeed, the LILLEbaby carrier has received numerous accolades and unsolicited media attention. For example, Baby Gizmo wrote "I feel like I had to buy 3 different carriers to get all the features LILLEbaby put into one." Baby Bottom Line said "The carrier is. . . the Mother of all carriers . . . it's NUTS! This . . . by far . . . is the most functional carrier I have used!" The LILLEbaby carrier has also received numerous awards, including the "Mom's Choice Awards," the Babylist "Best Pick" award, the Tillywig "Parents' Favorite Products" award, the "Cribsie" award and is a Mom Trends "Must-haves" winner.

18. LILLEbaby has invested significant resources to protect its innovations, including pursuing patent protection as discussed *infra*.

THE PATENTS-IN-SUIT

19. LILLEbaby is the owner of all rights, title and interest to U.S. Patent No. 8,172,116 (“the ‘116 Patent”) entitled “Child Carrier Having Adaptive Leg Supports” issued on May 8, 2012. A copy of the ‘116 Patent is attached hereto as **Exhibit 1**.

20. LILLEbaby has the sole and exclusive right to prosecute this Action, enforce the ‘116 Patent against infringers including Defendants, and to collect damages on the ‘116 Patent for all relevant times.

21. LILLEbaby has complied with any applicable marking requirements under 35 U.S.C. § 287 for the ‘116 Patent.

22. LILLEbaby is the owner of all rights, title and interest to U.S. Patent No. 8,424,732 (“the ‘732 Patent”) entitled “Child Carrier Having Adaptive Leg Supports” issued on April 23, 2013. A copy of the ‘732 Patent is attached hereto as **Exhibit 2**.

23. LILLEbaby has the sole and exclusive right to prosecute this action, enforce the ‘732 Patent against infringers including Defendants, and to collect damages on the ‘732 Patent for all relevant times.

24. LILLEbaby has complied with any applicable marking requirements under 35 U.S.C. § 287 for the ‘732 Patent.

25. The ‘116 and ‘732 Patents are collectively referred to herein as the “Asserted Patents.”

DEFENDANTS’ INFRINGING CONDUCT

26. On information and belief, Defendants import into the United States, sell for importation and/or sell after importation infringing child carriers in the United States.

27. Specifically, Defendants use, offer to sell and sell within the United States, and

import into the United States, certain infringing child carriers including Defendants' Cybex Yema product (hereinafter "the Accused Products").

28. By way of example, Defendants offer for sale and sell after importation the Accused Products to U.S. based consumers through various channels including Defendants' online store <https://www.cybexonlineshop.com>.

29. Defendants also direct consumers to certain brick and mortar retail stores within the United States that warehouse and sell the Accused Products—and where in turn—U.S. based consumers can make in-store purchases of the Accused Products. *See* <https://cybex-online.com/en-us/retailer>.

30. Defendants advertise the Accused Products under the Cybex brand name.

31. The Accused Products are currently the subject of a Complaint filed by LILLEbaby seeking to commence an Investigation commenced by the U.S. International Trade Commission ("ITC") into violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("ITC Investigation"), for infringement of the Asserted Patents.

COUNT I – INFRINGEMENT OF THE '116 PATENT

32. LILLEbaby restates and incorporates by reference the paragraphs above as if stated fully herein.

33. On information and belief, in violation of 35 U.S.C. § 271(a), Defendants have, literally and under the doctrine of equivalents, directly infringed at least claim 1 of the '116 Patent by, among other things, making, using, offering for sale, and/or selling within the United States, and importing into the United States, the Accused Products as described *supra*, and will continue to do so unless such infringing activities are enjoined by this Court.

34. Specific claim charts demonstrating Defendants' infringement of the '116 Patent for each of the Accused Products is attached hereto as **Exhibit 3**.¹

¹ All claim charts attached hereto are for pleading purposes only—and shall not preclude nor be deemed replacements of LILLEbaby's infringement contentions to be served at a later date set by the Court in its Scheduling Order.

35. LILLEbaby has suffered, and continues to suffer, damages and irreparable harm as a result of Defendants' past and ongoing infringement.

36. Unless Defendants' infringement is enjoined, LILLEbaby will continue to be damaged and irreparably harmed.

37. Defendants have had knowledge of the '116 Patent since at least the date of the filing of this Action.

38. Defendants' ongoing infringement of the '116 Patent has been willful and deliberate, making this an exceptional case and entitling LILLEbaby to recover enhanced trebled damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285.

COUNT II – INFRINGEMENT OF THE '732 PATENT

39. LILLEbaby restates and incorporates by reference the paragraphs above as if stated fully herein.

40. On information and belief, in violation of 35 U.S.C. § 271(a), Defendants have, literally and under the doctrine of equivalents, directly infringed at least claim 10 of the '732 Patent by, among other things, making, using, offering for sale, and/or selling within the United States, and importing into the United States as described *supra*, the Accused Products, and will continue to do so unless such infringing activities are enjoined by this Court.

41. Specific claim charts demonstrating Defendants' infringement of the '732 Patent for each of the Accused Products is attached hereto as **Exhibit 4**.

42. LILLEbaby has suffered, and continues to suffer, damages and irreparable harm as a result of Defendants' past and ongoing infringement.

43. Unless Defendants' infringement is enjoined, LILLEbaby will continue to be damaged and irreparably harmed.

44. Defendants have had knowledge of the '732 Patent since at least the date of the filing of this Action.

45. Defendants' ongoing infringement of the '732 Patent has been willful and deliberate, making this an exceptional case and entitling LILLEbaby to recover enhanced trebled damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285.

DEMAND FOR JURY TRIAL

46. Pursuant to Fed. R. Civ. P. 38, Plaintiff demands a trial by jury of all issues triable of right to a jury and raised by the pleadings in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff LILLEbaby requests that this court enter the following orders and judgments:

- a. Awarding damages no less than a reasonable royalty together with interests and costs;
- b. Preliminary and permanently enjoining Defendants and their parents, subsidiaries, divisions, officers, directors, agents, dealers, representatives, servants, employees, successors, assigns, and all parties acting in concert or participation with them, from infringing the Asserted Patents;
- c. Finding the Defendants' infringement of the Asserted Patents to be willful under 35 U.S.C. § 284 and trebling damages accordingly;
- d. Finding this to be an exceptional case and awarding LILLEbaby attorneys' fees under 35 U.S.C. § 285; and
- e. Awarding LILLEbaby such other and further relief as the Court deems just and proper.

Dated: March 6, 2019

Respectfully Submitted,

By: /s/ Dawn M. Neborsky
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