

JUDGE NORGLÉ

MAGISTRATE JUDGE BROWN

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KOLCRAFT ENTERPRISES, INC.,

Plaintiff,

v.

GRACO CHILDREN'S PRODUCTS, INC.
and CHICCO USA, INC.

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Kolcraft Enterprises, Inc. ("Kolcraft"), complains of Defendants, Graco Children's Products, Inc. ("Graco") and Chicco USA, Inc. ("Chicco"), as follows:

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. §§ 1331 and 1338(a).

2. Kolcraft is a Delaware corporation having its primary place of business at 1100 West Monroe St., Chicago, Illinois. Kolcraft is in the business of, among other things, developing, manufacturing and selling baby products such as crib mattresses and playyards.

3. Kolcraft owns and has standing to sue for infringement of: U.S. Patent No. 7,376,993 (the "993 Patent") entitled "Play Gyms and Methods For Operating The Same" issued on May 27, 2008.

4. Graco is a Delaware corporation that regularly conducts business in Illinois and specifically in this district. Graco may be served with process by serving its registered agent CT Corporation System, 1300 E. 9th Street, Cleveland, Ohio 44114-1501. Graco competes with Kolcraft in the baby products industry.

5. Chicco is a New Jersey corporation that regularly conducts business in Illinois and specifically in this district. Chicco may be served with process through its principal place of business located at 1835 Freedom Road, Lancaster, Pennsylvania 17601-6760. Chicco also competes with Kolcraft in the baby products industry

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

7. The Court has personal jurisdiction over the Defendants because, among other things, both Graco and Chicco each transact business in this judicial district, at least by offering to sell, selling and/or advertising infringing products at retail stores and through the Internet and other distribution channels in such a way as to reach customers in Illinois and this judicial district. Defendants each have committed acts of infringement in this judicial district.

8. Graco has infringed and is now infringing the '993 patent through, among other activities, the manufacture, use, sale, importation and/or offer for sale of infringing child playyard products, including but not limited to the Graco Baby Einstein's discovery Pack N Play ("Graco Accused Products") throughout the United States, including within this judicial district. Specifically, the Graco Accused Products contain each and every element of at least claims 22 and 23 patent both literally and under the doctrine of equivalents in contravention of 35 U.S.C. §271. Graco has also infringed the '993 patent by knowingly and actively inducing others to infringe, and by contributing to the infringement of others through the manufacture, use, sale, importation and/or offer for sale of the Graco Accused Products.

9. Chicco has infringed and is now infringing the '993 patent through, among other activities, the manufacture, use, sale, importation and/or offer for sale of infringing child playyard products, including but not limited to the Chicco Lullaby LX Playyard ("Chicco

Accused Products") throughout the United States, including within this judicial district. Specifically, the Chicco Accused Products contain each and every element of at least claims 1-12 and 18-21 of the '993 patent both literally and under the doctrine of equivalents in contravention of 35 U.S.C. §271. Chicco has also infringed the '993 patent by knowingly and actively inducing others to infringe, and by contributing to the infringement of others through the manufacture, use, sale, importation and/or offer for sale of the Chicco Accused Products.

10. Defendants' infringement, contributory infringement and/or knowing and intentional inducement to infringe has injured Kolcraft and Kolcraft is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

11. Kolcraft has complied with 35 U.S.C. § 287.

12. Defendants' infringement, contributory infringement and/or inducement to infringe the '993 patent has been willful, deliberate and objectively reckless.

13. Defendants' infringement of the '993 patent has caused irreparable harm to Kolcraft, which has no adequate remedy at law, and will continue to injure Kolcraft unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further importation, manufacture, use, offer for sale and/or sale of products within the scope of the '993 patents, and enjoining Defendants from contributing to and/or inducing infringement of the '993 patent.

WHEREFORE, Plaintiff Kolcraft respectfully asks this Court to enter judgment against each of the Defendants, individually and jointly, and against their subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

- a. The entry of judgment in favor of Kolcraft and against Graco and Chicco;
- b. An award of damages adequate to compensate Kolcraft for the infringement that has occurred, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284, together with prejudgment interest from the date the infringement began;
- c. Increased damages as permitted under 35 U.S.C. § 284;
- d. A finding that this case is exceptional and an award to Kolcraft of its attorneys' fees and costs as provided by 35 U.S.C. § 285;
- e. A permanent injunction prohibiting further infringement, inducement and/or contributory infringement of the '993 patent; and,
- f. Such other relief that Kolcraft is entitled to under law, and any other and further relief that this Court or a jury may deem just and proper.

Jury Demand

Kolcraft demands a trial by jury on all issues presented in this Complaint.

Respectfully submitted,

/s/ Raymond P. Niro, Jr.

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