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ADVANTEK MARKETING, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

ADVANTEK MARKETING, INC.,

Plaintiff,

vs.

SHANGHAI WALK-LONG TOOLS CO.,
LTD.; NEOCRAFT TOOLS CO., LTD.;
ORION FACTORY DIRECT, and DOES
1-10 inclusive,

Defendants.

CASE NO. 2:19-cv-05326

**COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND
FOR JURY TRIAL**

1 For its Complaint against Defendants Shanghai Walk-Long Tools Co., Ltd.
2 (“Walk-Long”), Neocraft Tools Co., Ltd. (“Neocraft”), Orion Factory Direct (“Orion”),
3 and Does 1-10 inclusive (collectively, “Defendants”), Plaintiff Advantek Marketing, Inc.
4 (“Advantek” or “Plaintiff”), alleges as follows:

5 6 **JURISDICTION AND VENUE**

7 1. This is an action for patent infringement of United States Patent No.
8 9,903,401 arising under the Patent Act of the United States, 35 U.S.C. §§ 1 *et seq.*

9 2. This Court has subject matter jurisdiction over this action pursuant to 28
10 U.S.C. §§ 1331 and 1338.

11 3. This Court has personal jurisdiction over Defendants on the basis of the
12 following facts alleged on information and belief. Zhu Hong Wen, also known as “Hovell
13 Zhu,” is a Chinese national and part-time resident of this district. Zhu is owner and
14 president of Walk-Long and, in his own name or the name of Walk-Long, purchased a
15 residence in this district in Chino Hills, California. Defendants Walk-Long and Orion
16 regularly use this Chino Hills property and other California locations to conduct business
17 and have enjoyed the privileges and protections of California law. Defendants have
18 committed one or more of the infringing acts complained of herein in California and in
19 this district, they have marketed and sold an infringing product in California and in this
20 district, and on information and belief they do regular business in California and in this
21 district.

22 4. Venue in this Court is proper. Under 28 U.S.C. § 1400(b), on information
23 and belief, Defendants reside in this district inasmuch as they are subject to personal
24 jurisdiction here, and one or more of their officers is carrying on business here; in
25 addition, Defendants have committed acts of infringement in this District. Further, under
26 28 U.S.C. § 1391(b), subsections (1), (2), and (3), venue is proper, as one or more
27 Defendants resides here, a substantial part of the events or omissions giving rise to
28 Plaintiff’s claims occurred here, and one or more Defendants is subject to personal

jurisdiction here.

PARTIES

5. Advantek is an active California corporation with its principal place of business at 357 Science Drive, Moorpark, CA 93021

6. On information and belief, Walk-Long is a Chinese corporation with its principal place of business at 989 Songhua Road, Qingpu Industrial Zone Shanghai, 201706 China. On information and belief, Walk-Long does business in the Central District of California.

7. On information and belief, Neocraft is a Chinese corporation and a subsidiary of Walk-Long, with its principal place of business at 989 Songhua Road, Qingpu Industrial Zone Shanghai, 201706 China. On information and belief, Neocraft does business in the Central District of California.

8. On information and belief, Orion is an entity of unknown form that is owned or controlled by Neocraft or Walk-Long. On information and belief, Orion uses a business address of 989 Songhua Road, Qingpu Industrial Zone Shanghai, 201706 China in addition to a place of business in the United States at 11902 Elm Street, Suite 6D, Omaha, Nebraska 68144. On information and belief, Orion does business in the Central District of California.

9. Plaintiff does not know the true names and capacities, whether individual, corporate, associate, or otherwise, of the defendants named herein as DOES 1 through 10, inclusive. Plaintiff therefore sues them by use of fictitious names. Plaintiff is informed and believes Doe Defendants 1 through 10 are affiliated in some manner with Walk-Long, Neocraft, and Orion and have direct, contributory, or vicarious responsibility for the wrongful acts as alleged herein. Plaintiff will amend this Complaint appropriately once the true names and capacities of Doe Defendants 1 through 10 are learned. As used below, the term “Defendants” shall collectively refer to the named defendants, Walk-Long, Neocraft, Orion, together with the defendants identified as DOES 1 through 10.

1 10. On information and belief, at all times herein mentioned, each of the
2 Defendants was the agent of each of the remaining Defendants, and in doing the things
3 alleged herein, was acting within the scope of such agency. On information and belief,
4 the conduct of each of the Defendants as alleged herein was ratified by each of the other
5 Defendants, and the benefits thereof were accepted by each of the other Defendants.

6 11. On information and belief, each of the Defendants induced the other
7 Defendants to infringe upon Plaintiff's rights, participated in, and enabled the other
8 Defendants to engage in the unlawful conduct herein alleged, or supervised that conduct,
9 with knowledge that the conduct of other Defendants would infringe upon Plaintiff's
10 rights. Therefore each of the Defendants is jointly and severally liable as a contributory
11 or vicarious infringer of Plaintiff's rights.

12 13 **FACTUAL BACKGROUND**

14 12. Advantek designs, develops, markets, and sells animal related products
15 worldwide and is a world leader in the pet speciality market. Its products include the
16 award-winning Pet GazeboTM line of animal housing products. Advantek's CEO, Joseph
17 Pomerantz, invented a specialized connector for use with the Pet GazeboTM that is easy to
18 use and secure.


19 13. On February 27, 2018, the United States Patent & Trademark Office duly
20 and legally issued U.S. Patent No. 9,903,401 ("the '401 Patent"), entitled "Connector."
21 Plaintiff owns, by assignment, the '401 Patent and exclusively owns all rights, title, and
22 interest in and to the '401 Patent.

23 14. A true and correct copy of the '401 Patent is attached as Exhibit 1 and
24 incorporated herein by reference.

25 15. On information and belief, Defendants engage in the importation, marketing,
26 distribution, and sale of a product described as the *Pet Companion Outdoor Pet Kennel*
27 (the "Accused Product"). The Accused Product comprises connectors that are covered by
28 the claims of the '401 Patent.

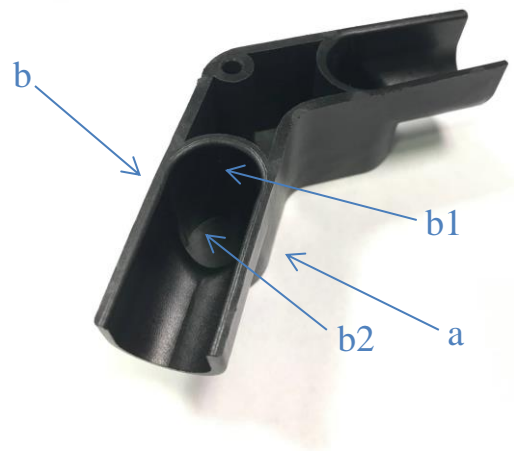
16. On information and belief, Defendants have infringed and continue to infringe the '401 Patent under 35 U.S.C. § 271, including, but not limited to, making, using, offering for sale, and/or selling connectors that are covered by the claims of the '401 Patent.

17. The exemplary chart below reproduces the language of independent Claim 1 of the '401 Patent and shows that the Accused Product infringes that claim:

Claim 1 of the '401 Patent	Infringement by Accused Product
A connector for connecting a structure, comprising: ¹	The Accused Product comprises connectors that connect other structural elements of the Accused product together.
a base;	 <p>The annotated image above shows the Accused Product's connector comprising a base (a).</p>

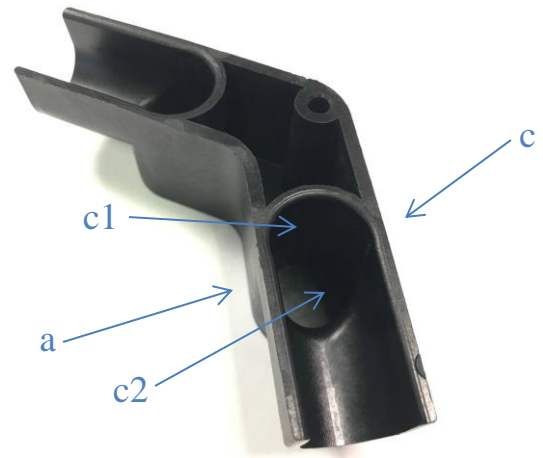
¹ Advantek does not concede that the preamble of claim 1 limits the claim. *See Am. Med. Sys., Inc. v. Biolitec, Inc.*, 618 F.3d 1354, 1358 (Fed. Cir. 2010) ("A preamble is not regarded as limiting . . . when the claim body describes a structurally complete invention.") (internal quotes and citation omitted). Regardless, Advantek herein presents evidence establishing that Defendants' connectors meet the language of the preamble.

1 a first receptacle extending from said base,
2 said first receptacle comprising a first
3 open end and a first closed end, wherein
4 said first receptacle is in a fixed position;
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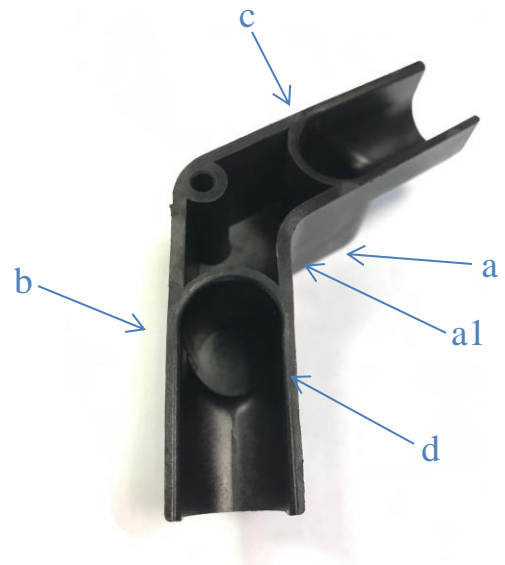
The annotated image above shows the Accused Product's connector comprising a first receptacle (b) extending from said base (a), said first receptacle (b) comprising a first open end (b1) and a first closed end (b2), wherein said first receptacle (b) is in a fixed position.

1 a second receptacle extending from said
2 base, said second receptacle comprising a
3 second open end and a second closed end,
4 wherein said second receptacle is in a
5 fixed position;



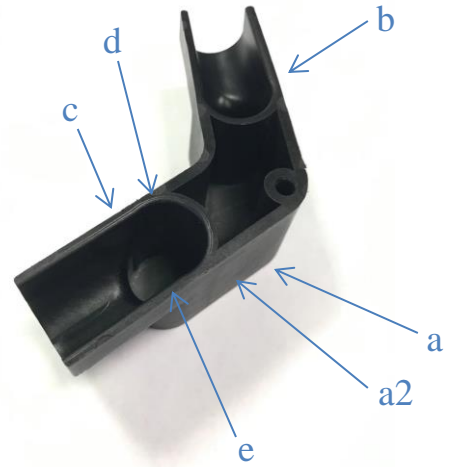
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12 The annotated image above shows the
13 Accused Product's connector comprising a
14 second receptacle (c) extending from said
15 base (a), said second receptacle (c)
16 comprising a second open end (c1) and a
17 second closed end (c2), wherein said
18 second receptacle (c) is in a fixed position.
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1 a first wall adjacent to both said first and
2 second receptacles, said first wall
3 extending from said base in a same
4 direction as said first receptacle and
5 positioned between said first receptacle
6 and a first edge of said base; and
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The annotated image above shows the Accused Product's connector comprising a first wall (d) adjacent to both said first (b) and second (c) receptacles, said first wall (d) extending from said base (a) in a same direction as said first receptacle (b) and positioned between said first receptacle (b) and a first edge of said base (a1).

a second wall adjacent to both said first and second receptacles, said second wall extending from said base in a same direction as said first wall and positioned between said second receptacle and a second edge of said base.



The annotated image above shows the Accused Product's connector comprising a second wall (e) adjacent to both said first (b) and second (c) receptacles, said second wall (e) extending from said base (a) in a same direction as said first wall (d) and positioned between said second receptacle (c) and a second edge of said base (a2).

CAUSE OF ACTION

(Infringement of the '401 Patent Against All Defendants)

18. Plaintiff realleges and incorporates by reference the full text of all of the foregoing numbered paragraphs, photographs, figures, and tables as though each such paragraph, photograph, figure, and table has been fully set forth herein.

19. On information and belief, Defendants have infringed, literally or through the doctrine of equivalents, and continue to infringe the '401 Patent under 35 U.S.C. §

271 by making, using, importing, offering for sale, and/or selling connectors that are covered by the claims of the '401 Patent.

20. Defendants have directly infringed at least claim 1 of the '401 Patent by making, using, selling, and/or offering for sale the Accused Product. For example, Defendants operate the website <https://mypetcompanion.com/> for selling the Accused Product directly to customers.

21. Defendants have indirectly infringed at least claim 1 of the '401 Patent by actively, knowingly, and intentionally inducing infringement of the '401 Patent by others (e.g., Defendants' customers, distributors, partners, and/or third parties) in order to deteriorate Advantek's market share and take Advantek's customers.

22. Defendants do not have a license or permission to use the '401 Patent.

23. Defendants had actual notice of the '401 Patent and the infringement by the Accused Product no later than May 23, 2019 as a result of correspondence from counsel for Advantek to counsel for Defendants, Perry M. Goldberg, Esq.

24. Despite Defendants' actual knowledge of the '401 Patent, Defendants have continued to make, use, import, offer to sell, and/or sell the Accused Product, which constitutes willful infringement of the '401 Patent under 35 U.S.C. § 284.

25. On information and belief Defendants will continue to infringe the '401 Patent unless enjoined by this court.

26. As a result of Defendant's infringement of the '401 Patent, Advantek has been irreparably injured. Unless Defendant's infringing acts are enjoined by this Court, Advantek will continue to suffer irreparable injury.

27. As a result of Defendant's infringement of the '401 Patent, Advantek has been and continues to be damaged in an amount yet to be determined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Advantek Marketing, Inc. prays for relief as follows:

A. Enter judgement holding Defendants liable for Advantek for infringement of

1 the '401 Patent;

2 B. Enter judgement holding Defendants jointly and severally liable for
3 infringement of the '401 Patent;

4 C. A post-judgement accounting of damages for the period of infringement of
5 the '401 Patent following the period of damages established by Advantek at trial;

6 D. Enter an order preliminarily and then permanently enjoining Defendants and
7 their respective officers, directors, agents, servants, affiliates, employees, divisions,
8 branches, subsidiaries, parents, and all others acting in active concert or participation
9 with them, from continued acts of infringement of the '401 Patent;

10 E. If a permanent injunction is not granted, a judicial determination of the
11 conditions of future infringement such as a royalty bearing compulsory license or such
12 other relief as the court deems appropriate;

13 F. That Plaintiff be awarded its damages according to proof;

14 G. That Plaintiff be awarded the profits acquired by Defendants through
15 Defendants' unlawful acts;

16 H. That the court increase and enhance by three times any award of damages
17 and/or profits based on Defendants' willfulness;

18 I. An order declaring that this is an exceptional case within the meaning of 35
19 U.S.C. § 285;

20 J. An award of prejudgment interest, post-judgment interest, costs and
21 disbursements, and attorney's fees; and

22 K. Such other and further relief as the court deems Advantek may be entitled in
23 law and equity.

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25 Respectfully submitted,

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27 DATED: June 18, 2019

By: /s/ Jaye G. Heybl

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Attorneys for Plaintiff
ADVANTEK MARKETING, INC.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Local Rule 38-1, Plaintiff Advantek Marketing, Inc. hereby demands a trial by jury of any and all issues triable of right by a jury pursuant to the Seventh Amendment to the United States Constitution or as given by a statute of the United States.

DATED: June 18, 2019

By: /s/ Jaye G. Heybl

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