

1 JAMES D. BOYLE, ESQ.

Nevada Bar No. 08384

2 Email: jboyle@nevadafirm.com

JESSICA M. LUJAN, ESQ.

3 Nevada Bar No. 14913

Email: jlujan@nevadafirm.com

4 HOLLEY DRIGGS WALCH

FINE PUZEY STEIN & THOMPSON

5 400 South Fourth Street, Third Floor

Las Vegas, Nevada 89101

6 Telephone: (702) 791-0308

Facsimile: (702) 791-1912

7 Brian N. Platt (*pro hac vice forthcoming*)

8 Brent Lorimer (*pro hac vice forthcoming*)

WORKMAN NYDEGGER

9 60 East South Temple Suite 1000

Salt Lake City, Utah 84111

10 Telephone: (801) 533-9800

Facsimile: (801) 328-1707

11 Email: bplatt@wnlaw.com

blorimer@wnlaw.com

12 *Attorneys for Plaintiff The Neck Hammock, Inc.*

13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15
16 THE NECK HAMMOCK, INC., a Delaware
corporation,

17 Plaintiff,

18 vs.

19 DFO Global Performance Commerce
Limited, a Nevada limited liability company,
20 STRONG CURRENT ENTERPRISES,
LIMITED, a business entity of unknown
21 registration, HEALTH AND SOLE, a
business entity of unknown registration, and
22 THINK TECH ENTERPRISES, LTD, a
business entity of unknown registration, and
23 JOHN DOES 1-10,

24 Defendants.

Case No:

COMPLAINT

JURY DEMANDED

1 Plaintiff The Neck Hammock, Inc. (“Neck Hammock”) complains and alleges as follows
2 against Defendants DFO Global Performance Commerce Limited (“Defendant” or “DFO”),
3 Strong Current Enterprises, Limited (“Strong Current”), Health and Sole, Think Tech Enterprises,
4 Ltd. (“Think Tech”), and John Does 1-10 (doing business as “NecKomfort”).

5 **THE NATURE OF THE ACTION**

6 1. Dr. Steve Sudell Jr., DPT, ATC (“Dr. Sudell”), is a physical therapist and the
7 founder and President of Neck Hammock.

8 2. While working as a licensed physical therapist, Dr. Sudell repeatedly treated
9 individuals suffering from compression-related neck pain. Based on his years of experience, Dr.
10 Sudell knew that cervical traction almost always provided substantial relief for those suffering
11 from neck pain and was routinely performing cervical traction on his patients during physical
12 therapy sessions. Dr. Sudell wanted his patients to be able to continue experiencing the therapeutic
13 benefits of cervical traction in between their physical therapy sessions and even after their routine
14 physical therapy sessions had ended, but after looking through the array of at-home cervical
15 traction devices available on the market, Dr. Sudell could not with a good conscience recommend
16 any at-home cervical traction device to his patients. All of the products available at that time were
17 either too expensive and too bulky or were cheaply made and ineffective.

18 3. Instead of watching his clients suffer for lack of an adequate replacement for
19 professionally-performed cervical traction, Dr. Sudell invested his time and energy into inventing
20 and developing an economical alternative that was—above all—effective to provide therapeutic
21 cervical traction but that was also comfortable and economically priced. Dr. Sudell coined his
22 inventive portable cervical traction device the Neck Hammock®.

23 4. The ingenious design of the Neck Hammock® (*e.g.*, as shown in Figure 1 below)
24 allows individuals suffering from a variety of conditions, including neck arthritis, a

1 herniated/bulging disc in the neck, pinched nerves, neck strains and cervical muscle spasms to
2 experience therapeutic relief through cervical traction that would normally be administered in the
3 office of a physical therapist.

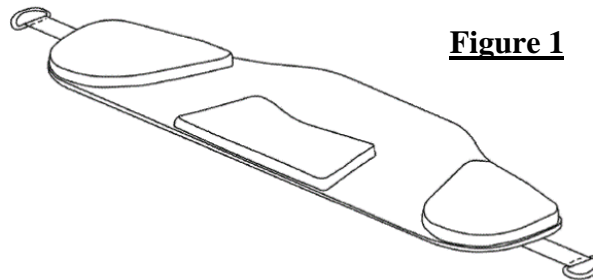


Figure 1

9 5. As illustrated in Figure 2 below, the Neck Hammock® includes shock-absorbing
10 cords attached to opposite ends of a sling that cradles the user's head. The shock-absorbing cords
11 are anchorable to an environmental object, such as a door or railing, and together with the force of
12 gravity, the tension of the cords provides gentle, therapeutic cervical traction to the user.

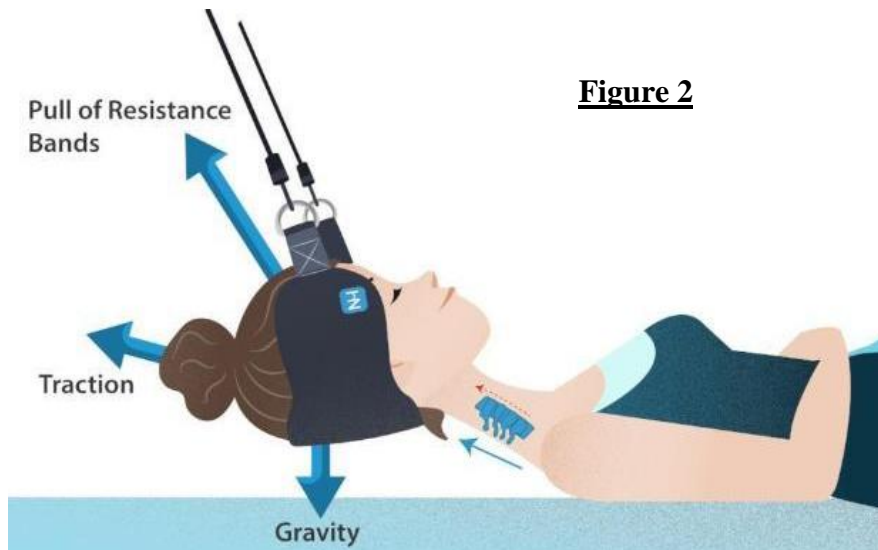


Figure 2

21 6. Used in this way, the Neck Hammock® gradually stretches muscles and ligaments
22 around the vertebrae of the spine, expanding space between vertebrae. In the end, pinched nerves
23 are released, herniated and bulging discs relax as pressure is relieved, and blood circulation
24 improves to the structures of the cervical spine, which may help oxygenate muscles, nerves,

1 tendons and ligaments.

2 7. These, and other health benefits that are enabled by the use of the Neck Hammock®
3 result in this device being categorized as a “medical device” according to the Federal Drug
4 Administration (FDA). Such devices require FDA approval for unencumbered commercialization,
5 and Dr. Sudell abided by the applicable laws and regulations to receive FDA approval of the Neck
6 Hammock® as a medical device.

7 8. On October 24, 2017, Neck Hammock launched a campaign on kickstarter.com,
8 which was fully funded within three hours. By December 1, 2017, Neck Hammock successfully
9 raised \$901,058 in its Kickstarter campaign—more than 4,500% over its original goal of \$20,000.
10 Neck Hammock had a sister crowdfunding campaign for the Neck Hammock® that they launched
11 on indiegogo.com. This campaign was also extremely successful and fully funded far in advance—
12 for a total \$1,642,934 in crowd-sourced, pre-paid orders.

13 9. The revolutionary Neck Hammock® was not only widely received by consumers
14 on crowdfunding websites but in the media as well. The Neck Hammock® was featured on the Dr.
15 Oz Show as one of the best health finds of 2018. The Neck Hammock® received a spotlight article
16 in Forbes and was widely covered by myriad other news and personal health sites.

17 10. However, eager consumers and media outlets were not the only parties interested
18 in the market success of the Neck Hammock®. Unfortunately, after the crowdfunding campaigns
19 launched—*but before the successful campaigns had even ended*—infringers began copying Neck
20 Hammock’s design and selling cheaply made knock-off products. The Neck Hammock took great
21 care in sourcing the materials and selecting trusted manufacturers that would ensure the production
22 of a consistently safe and reliable product. The shameless copycats that flooded the market in an
23 attempt to ride the coattails of Neck Hammock’s success were not so concerned about functional
24 or safe products and often resulted in mechanical failures and serious consumer injuries when the

1 products were used.

2 11. Neck Hammock was forced to expedite its intellectual property protections to
3 combat the widespread copying of the Neck Hammock® device, branding, and marketing
4 materials. Neck Hammock’s creative achievement resulted in broad intellectual property
5 protection for the Neck Hammock® and associated brand, including utility and design patents,
6 trademarks, and copyright protections. Nevertheless, Neck Hammock’s product innovations have
7 been the subject of widespread copying. Unscrupulous competitors have attempted to capitalize
8 on Neck Hammock’s success by co-opting Neck Hammock’s copyrighted works and patented
9 designs and by misappropriating Neck Hammock’s trademark, including its flagship “Neck
10 Hammock®” mark. To date, over 8,000 unauthorized product listings infringing one or more of
11 Neck Hammock’s intellectual property rights have been removed, but the endless whack-a-mole
12 continues despite Neck Hammock’s efforts to police the marketplace.

13 12. Defendants are some of the principal offenders selling knock-off Neck Hammock®
14 devices, infringing Neck Hammock’s patented designs, misappropriating its trademarks, and in
15 some instances, even blatantly ripping off Neck Hammock’s registered copyrights. Defendants sell
16 their infringing products on eCommerce platforms including <https://buyneckomfort.com>.

17 13. With this action, Neck Hammock seeks to put a stop to Defendants’ illegal conduct
18 and to obtain compensation for infringement that has occurred thus far.

19 **THE PARTIES**

20 14. Plaintiff The Neck Hammock, Inc. is a Delaware corporation with a principal place
21 of business at 830 Hill Street, Apt. E, Santa Monica, California. Neck Hammock does business,
22 has customers, and has suffered injury in the District of Nevada.

23 15. Defendant DFO Global Performance Commerce Limited (“Defendant” or “DFO”)
24 is a Nevada limited liability corporation with a registered agent located at 500 N. Rainbow Blvd.,

1 Suite 300 A, Las Vegas, Nevada, 89107, and with a place of business at 260 West 39th Street, Suite
2 202, New York, New York, 10018.

3 16. Defendant Strong Current Enterprises Limited is a business entity of unknown
4 origin. Defendant DFO owns the U.S. Trademark Serial No. 88137806 for “Strong Current” in
5 the field of “advertising and marketing,” and Defendant Strong Current receives payments for the
6 sale of Defendant DFO’s infringing products. On information and belief, Defendant Strong
7 Current is controlled by or is an affiliate of DFO.

8 17. Defendant Health and Sole is a business entity of unknown origin. Defendant
9 purports to maintain a place of business at Think Tech Enterprises LTD., Rm 709B, 7/F, Opulent
10 Building, 402-406 Hennessy Road, Wanchai, Hong Kong. Defendant sells Defendant DFO’s
11 infringing products through its website <http://www.healthandsole.com>. On information and belief,
12 Defendant Health and Sole is controlled by or is an affiliate of DFO.

13 18. Defendant Think Tech Enterprises, Ltd. is a business entity of unknown origin.
14 Defendant purports to maintain a place of business at Think Tech Enterprises LTD., Rm 709B,
15 7/F, Opulent Building, 402-406 Hennessy Road, Wanchai, Hong Kong. Defendant sells Defendant
16 DFO’s infringing products through its website <http://www.healthandsole.com> and maintains a
17 business website at <https://www.thinktech.global/>. On information and belief, Defendant Think
18 Tech is controlled by or is an affiliate of DFO.

19 19. Defendants John Does 1-10 are individuals or entities whose true names and
20 addresses of residence are unknown. Working with DFO and its affiliate/partner defendants,
21 Defendant John Does sell infringing, knock-off Neck Hammock® products on various
22 eCommerce platforms including “buyneckomfort.com” and “healthandsole.com.” At the time of
23 filing, the true names and addresses of Defendants John Does 1-10 could not be discovered with
24 reasonable effort. When the true names and addresses are discovered, and upon leave of this Court,

1 they will be added into the Complaint by amendment.

2 **JURISDICTION**

3 20. This Court has subject matter jurisdiction under 15 U.S.C. § 1121 (action arising
4 under the Lanham Act); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1338(a) (any Act of
5 Congress relating to patents or trademarks); 28 U.S.C. § 1338(b) (action asserting claim of unfair
6 competition joined with a substantial and related claim under the trademark laws); and 28 U.S.C.
7 § 1367 (supplemental jurisdiction).

8 21. This Court has personal jurisdiction over Defendant DFO, Strong Current, Health
9 and Sole, Think Tech, and John Does 1-10 because Defendants have committed and continue to
10 commit acts of infringement in violation of 35 U.S.C. § 271 and 15 U.S.C. §§ 1114 and 1125 in
11 this District, and because each Defendant places infringing products into the stream of commerce
12 with the knowledge or understanding that such products are sold in the State of Nevada and in this
13 District. In addition, the Court has personal jurisdiction because Defendant DFO is a Nevada
14 corporation residing within this district, and because each of these Defendants has participated in
15 a scheme to sell infringing products in this district. The acts by Defendants cause substantial injury
16 to Neck Hammock in this District. On information and belief, Defendants derive substantial
17 revenue from their sale of infringing products within this District, expect their actions to have
18 consequences within this District, and derive substantial revenue from interstate and international
19 commerce directed both to and from this District.

20 **VENUE**

21 22. Defendants are individuals or entities subject to personal jurisdiction in this
22 District. Venue is proper in this District under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(b)
23 because DFO is a resident of this district and because a substantial part of the events giving rise to
24 this claim took place in this District. In addition, Neck Hammock suffered harm in this District

1 and Defendants transact business within this district. Venue is also proper in this district under 28
2 U.S.C. § 1391(b)(3) because certain Defendants are individuals whose names and addresses of
3 residence are unknown that are otherwise subject to personal jurisdiction in this District.
4 Alternatively, upon information and belief, venue is proper in this district as to any Defendant that
5 is a foreign person or corporation otherwise subject to personal jurisdiction in this District.

6 **BACKGROUND**

7 23. Neck Hammock is a world-leading manufacturer of innovative portable devices
8 designed to offer pain relief, including the cervical traction device designed to offer neck pain
9 relief widely known as the Neck Hammock® cervical traction device. Neck Hammock's business
10 is dedicated to the development of portable pain relief devices. In its short time providing
11 affordable pain relief devices, Neck Hammock has filled an important niche in the physical therapy
12 market by offering innovative home-solutions to physical health problems.

13 24. Cervical traction generally refers to methods of applying force to relieve neck pain
14 for individuals suffering from various ailments, including neck arthritis, herniated/bulging discs in
15 the neck, pinched nerves, neck strains, or cervical muscle spasms. Cervical traction entails gently
16 urging the head away from the neck, and gradually stretching muscles and ligaments around the
17 vertebrae of the spine and expanding space between vertebrae. Cervical traction may release
18 pinched nerves, relax herniated and bulging discs by relieving pressure, improve blood circulation
19 to the structures for the cervical spine, and help oxygenate muscles, nerves, tendons and ligaments
20 in the head and neck area.

21 25. Traditionally, individuals could only receive cervical traction at a medical facility
22 or office. Such visits were often time-consuming, inconvenient, and costly. Moreover, due to the
23 cost, patients could generally only afford such visits periodically.

24 26. Modern at-home cervical traction devices are available in the market. However,

1 many of these devices are complex, cumbersome, bulky, expensive and potentially unsafe. For
2 example, many home cervical traction devices include headgear which includes straps around the
3 user's forehead, head, and chin. Such headgear is cumbersome, constricting, and inconvenient; in
4 addition, such products exert stress at the jaw that may lead to or exacerbate temporomandibular
5 disorders. Moreover, many such devices require weights and pulleys to exert tension, which are at
6 the very least bulky, cumbersome, and inconvenient but which are also potentially dangerous.
7 Other similar devices include clamps and brackets for attachment to doors and furniture, which
8 can mar surface finishes and interfere with use of the door or furniture.

9 27. While working as a physical therapist, Dr. Sudell worked with and helped patients
10 experiencing, *inter alia*, neck pain. Based on his work, Dr. Sudell recognized the need for an easy
11 to use, compact, non-marring, and effective traction device that minimized discomfort and avoided
12 potentially injurious stresses, while remaining an economically feasible option for users.
13 Consequently, Dr. Sudell invented the widely recognized device known as the Neck Hammock®
14 cervical traction device (shown below in Figure 3) and founded the corporation known as “The
15 Neck Hammock.”

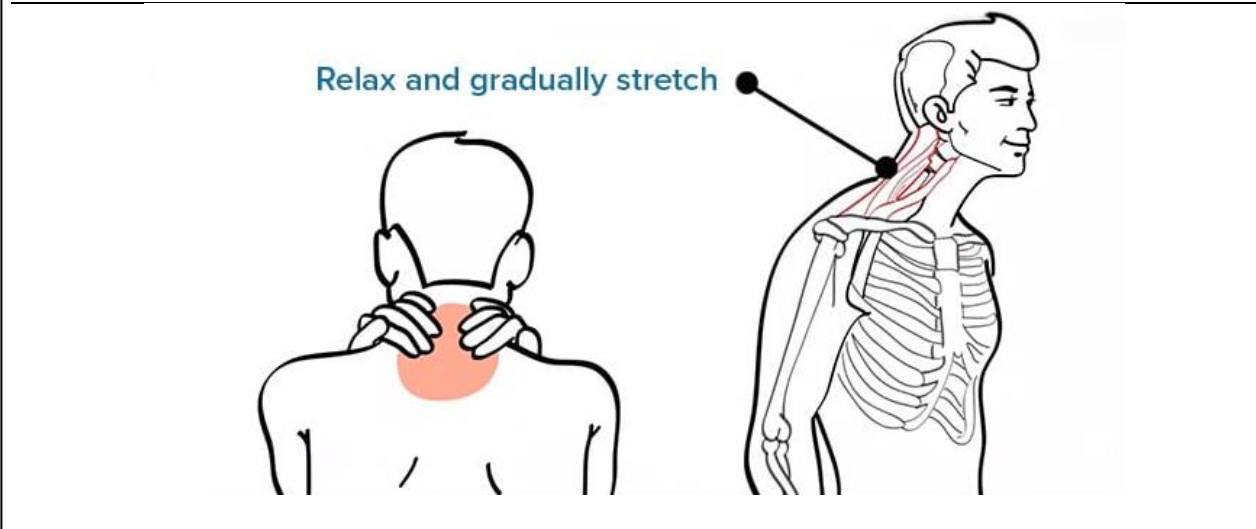


24
Figure 3

28. Neck Hammock has protected its innovative designs through a broad range of intellectual property rights. Among those rights are the patents listed below (the “Neck Hammock Patents”):

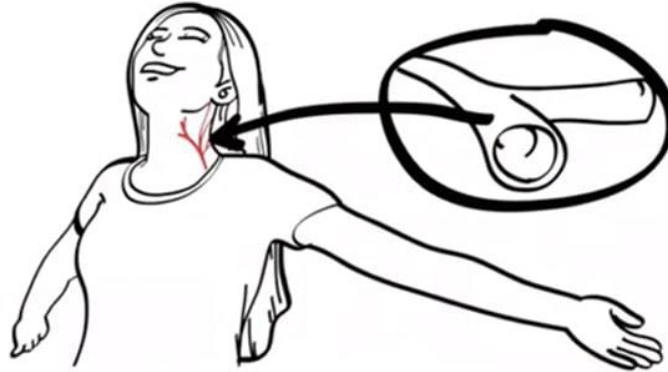
Patent Number	Title
10,307,284 (“284 Patent”)	Portable Traction Device with Sling
D824,035 (“D035 Patent”)	Portable Traction Device
D845,492 (“D492 Patent”)	Portable Traction Device
D845,494 (“D494 Patent”)	Portable Traction Device
D845,493 (“D493 Patent”)	Portable Traction Device

29. Neck Hammock obtained a U.S. copyright registration (Registration Number: VA 2-090-260) (“260 Copyright”) to protect the following pictorial and graphic works (the “Neck Hammock Copyright”):

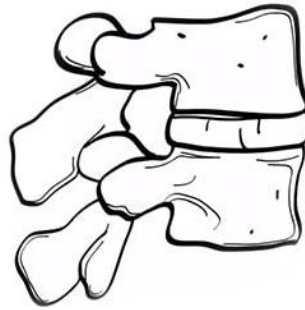


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Pinched nerves are released



Intervertebral Space Expands



- Blood Flow
- Circulation
- Nutrition

NH Neck Hammock

FEATURES

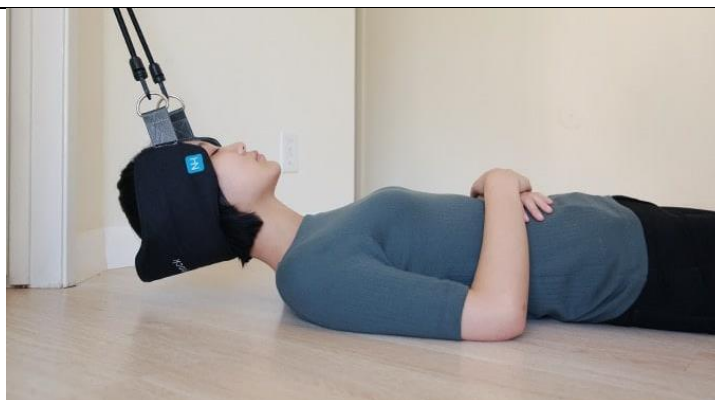
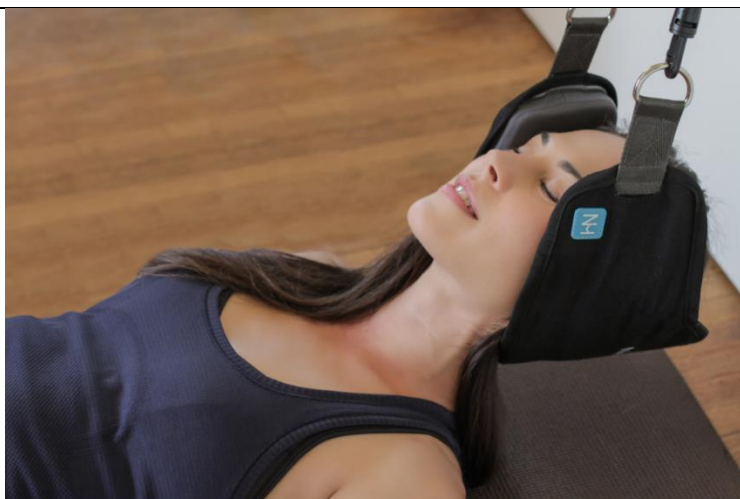


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24




1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24





14
15 30. Neck Hammock obtained U.S. trademarks related to physical therapy and cervical
16 traction, including the registered trademarks listed below (the “Neck Hammock Trademarks”):

17

Registration Number	Trademark
5,626,795 (“795 Trademark”)	Neck Hammock
5,439,768 (“768 Trademark”)	The Neck Hammock
5,557,079 (“079 Trademark”)	Neck Hammock 

18
19
20
21
22
23

1 31. Rather than innovate and develop their own technology and products, Defendants
2 copied Neck Hammock's patented technology and designs, and market those infringing designs as
3 "Neck Hammocks" (the "Accused Products") using the Neck Hammock Trademarks. Defendants
4 sell or advertise the Accused Products online at URLs including:

5 <https://www.buyneckomfort.com/>

6 <https://www.buyneckomfort.com/en/pre-1b.html>

7 <https://www.healthandsole.com/>

8 <https://discounts-usa.com/lp/neckhammock.html> and others.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

<https://discounts-usa.com/lp/neckhammock.html>

1 **7. NecKomfort - With NecKomfort you can effectively relieve**
2 **your neck pain - better than a chiropractor**

3 ★★★★★ (2,486 reviews)



10 Say goodbye to neck pain! NecKomfort relieves neck pain quickly and comfortably
11 from home. Patented technology combines resistance ligaments and gravity to give
12 you controlled stretching that leads to improved posture, increased circulation and
13 less pinched nerves. It draws tension from the tight, inflamed muscles in your neck
14 as you rest! Doctors call it "one of the best innovations of 2019".

15 [Click here to learn more about NecKomfort »](#)

16 [\(http://techdiscountzone.com/en/23-insanely-cool-products/\)](http://techdiscountzone.com/en/23-insanely-cool-products/)

17
18 **FIRST CAUSE OF ACTION**
19 **Trademark Infringement**
20 **15 U.S.C. § 1114**

21 32. Neck Hammock incorporates and realleges each and every allegation in the
22 preceding paragraphs, as if fully set forth herein.

23 33. Neck Hammock owns the Neck Hammock Trademarks.

24 34. Neck Hammock registered the Neck Hammock Trademarks with the United States
Patent and Trademark Office. A true and correct copy of the '795 Trademark is attached as Exhibit
A. A true and correct copy of the '768 Trademark is attached as Exhibit B. A true and correct copy
of the '079 Trademark is attached as Exhibit C.

35. The Neck Hammock Trademarks are valid and subsisting trademarks in full force
and effect.

1 36. Defendants infringe the Neck Hammock Trademarks by advertising products using
2 the Neck Hammock Trademarks and logos, or marks confusingly similar to the Neck Hammock
3 Trademarks and logos, in commerce for products offered for sale at Defendants' various internet
4 listings, and through referral "landing pages" controlled by or affiliated with Defendants which
5 link to purchase websites controlled by Defendants:



22 (<https://www.buyneckomfort.com/en/pre-1b.html>)

Home / Health And Wellness / NeckKomfort Hammock



NeckKomfort Hammock

Stretch, Decompress, and Relax With NeckKomfort, Anywhere!

~~\$83.32~~ \$49.99

- Relieves stress and discomfort
- Improve circulation throughout the body
- Enhance sleep quality

Quantity

◀ 1 ▶

Add to cart



<https://www.healthandsole.com/health-and-wellness/neckomfort-hammock.html>

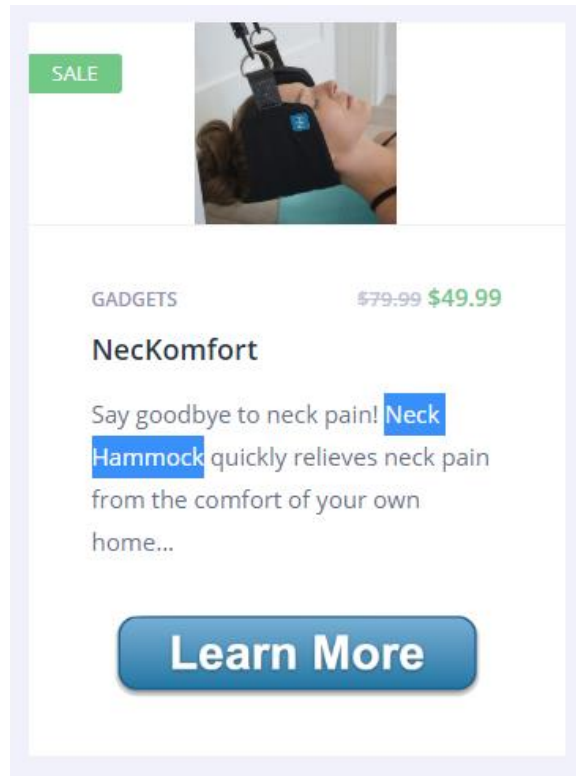
16. **NeckKomfort** - Relieve Neck Pain and Stiffness!



It's tough to enjoy the holidays, or anytime of year for that matter, if you're feeling headache and sore. Sitting up hurts. Bending over hurts. Turning your head hurts. Sound familiar? Now you can enjoy the benefits of a chiropractic visit in the comfort of your own home at a fraction of the cost. NeckKomfort uses cervical traction to relax tight neck muscles and promote better neck mobility, reducing pain and allowing you experience a better quality of life. Simply lie down using this portable **neck hammock** for 10 minutes. It may sound unusual, but people swear by it. Don't be fooled by imitation products. This is the one you want to gift.

<https://en.consumersavedaily.com/o-listicle/lp2/index.html>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24



The advertisement features a green 'SALE' badge in the top left corner. The main image shows a person lying back with the NeckKomfort device around their neck. Below the image, the text reads: 'GADGETS \$79.99 \$49.99', 'NeckKomfort', 'Say goodbye to neck pain! Neck Hammock quickly relieves neck pain from the comfort of your own home...', and a blue 'Learn More' button.

<https://discounts-usa.com/lp/index.html>

Developed with insights from industry-leading chiropractors and physical therapists, this portable device is changing the way people deal with neck pain. For the first time ever, there's a quick, comfortable, and affordable way to eliminate neck pain from the comfort of your own home.

Through a process called "cervical traction", NecKomfort helps to restore the natural curve of your spine. It hangs around your head like a hammock and uses your own body weight to stretch and decompress the muscles throughout your neck, shoulders, and back. All you have to do is lie back and relax— NecKomfort does all the hard work while you rest.

Included:

- Neck Hammock
- Storage Bag
- Eye Mask
- DO NOT DISTURB Hangtag
- Instruction Manual
- Size: Approx. 20 x 52 cm

(Defendants' Packaging – photograph taken 12/17/2019)

1 37. Defendants' unauthorized use of the Neck Hammock Trademarks is likely to cause
2 confusion, to cause mistake, or to deceive the consumer as to the affiliation, connection, or
3 association of Defendant's knock-off products with Neck Hammock, or as to the origin, or
4 approval by Neck Hammock of Defendants' goods, services, or commercial activities, in violation
5 of 15 U.S.C. § 1114(a).

6 38. Defendants' unauthorized use of the Neck Hammock Trademarks enables
7 Defendants to benefit unfairly from Neck Hammock's reputation and success, thereby giving
8 Defendants infringing product sales and commercial value they would not have otherwise
9 received.

10 39. Defendants' unauthorized use of the Neck Hammock Trademarks has been and
11 continues to be intentional, willful, and without regard to Neck Hammock's rights.

12 40. Defendants have gained profits by virtue of their infringement of the Neck
13 Hammock Trademarks.

14 41. Neck Hammock is suffering irreparable harm from Defendants' infringement of the
15 Neck Hammock Trademarks insofar as Neck Hammock's good will is being eroded by
16 Defendants' continued infringement. Neck Hammock has no adequate remedy at law to
17 compensate it for the loss of business reputation, customers, market position, confusion of
18 potential customers, and goodwill flowing from Defendants' infringing activities. Pursuant to 15
19 U.S.C. § 1116, Neck Hammock is entitled to an injunction against Defendants' continuing
20 infringement of the Neck Hammock Trademarks.

21 42. Because Defendants' actions have been committed with intent to damage Neck
22 Hammock and to confuse and deceive the public, Neck Hammock is entitled to treble its actual
23 damages or Defendants' profits, whichever is greater, and to an award of costs and, this being an
24 exceptional case, reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a) and 1117(b).

SECOND CAUSE OF ACTION
Unfair Competition
15 U.S.C. § 1125(a)

43. Neck Hammock incorporates and realleges each and every allegation in the preceding paragraphs, as if fully set forth herein.

44. Neck Hammock owns the Neck Hammock Trademarks.

45. Neck Hammock registered the Neck Hammock Trademarks with the United States Patent and Trademark Office.

46. The Neck Hammock Trademarks are valid and subsisting trademarks in full force and effect.

47. Defendants infringe the Neck Hammock Trademarks by advertising products using the Neck Hammock Trademarks, or marks confusingly similar to the Neck Hammock Trademarks, in commerce for products for sale at Defendants' web listings.

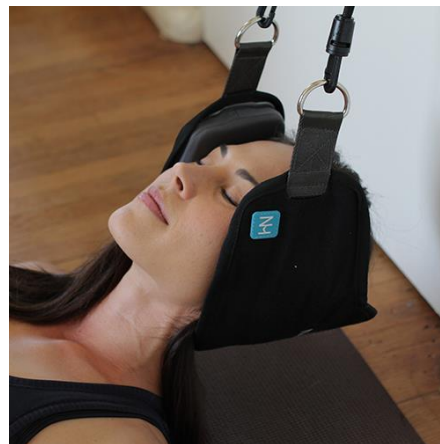
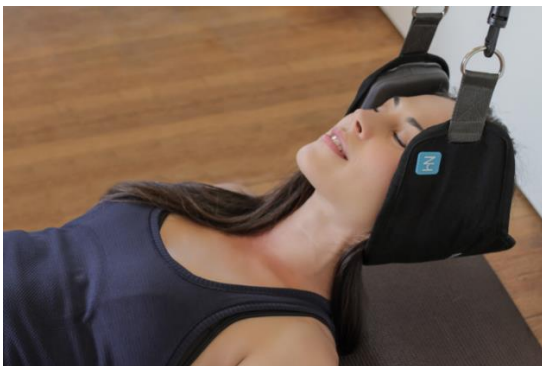
48. Defendants' unauthorized use of the Neck Hammock Trademarks is likely to cause confusion, to cause mistake, or to deceive the consumer as to the affiliation, connection, or association of Defendant's knock-off products with Neck Hammock, or as to the origin, or approval by Neck Hammock of Defendants' goods, services, or commercial activities, in violation of 15 U.S.C. § 1125(a).

49. Defendants' unauthorized use of the Neck Hammock Trademarks enables Defendants to benefit unfairly from Neck Hammock's reputation and success, thereby giving Defendants infringing product sales and commercial value they would not have otherwise received, in violation of 15 U.S.C. § 1125(a).

50. Defendants' unauthorized use of the Neck Hammock Trademarks as described herein has been and continues to be intentional, willful, and without regard to Neck Hammock's rights.

1 **U.S. Copyright No. VA 2-090-260**

DFO's Discounts-USA Website



14
15
16 57. Defendant DFO and its affiliate did not even remove the Neck Hammock logo from
17 the misappropriated images, which are the subject of the '260 Copyright.

18 58. Defendant DFO and its affiliate produced, reproduced, and/or prepared
19 reproductions of Neck Hammock's protected works without Neck Hammock's consent.
20 Defendants' acts of direct infringement and contributory infringement violate Neck Hammock's
21 exclusive rights under the Copyright Act, 17 U.S.C. §§ 106 and 501, including its exclusive rights
22 to produce, reproduce, and distribute copies of its work, to create derivative works, and to publicly
23 display its work.

24 59. Infringement by Defendant DFO and its affiliate has been undertaken willfully with

1 the intent to financially gain from Neck Hammock’s copyrighted work. Accordingly, Defendants
2 have infringed Neck Hammock’s copyrighted work.

3 60. Because of Defendants’ infringing acts, Neck Hammock is entitled to its actual
4 and/or statutory damages, and Defendants’ profits attributable to the infringement in an amount to
5 be proved at trial, together with all other relief allowed under the Copyright Act.

6 61. Because of Defendants’ willful infringement, Neck Hammock is entitled to
7 increased damages pursuant to 17 U.S.C. § 504(c)(2).

8 62. Defendants’ infringement has caused and continues to cause irreparable harm to
9 Neck Hammock, for which it has no adequate remedy at law. Unless this Court restrains
10 Defendants from infringing Neck Hammock’s protected work, the harm will continue to occur in
11 the future. Accordingly, Neck Hammock is entitled to an injunction.

12 **FOURTH CAUSE OF ACTION**
13 **Infringement of the ’284 Patent**
14 **35 U.S.C. § 271**

15 63. Neck Hammock incorporates and realleges each and every allegation in the
16 preceding paragraphs, as if fully set forth herein.

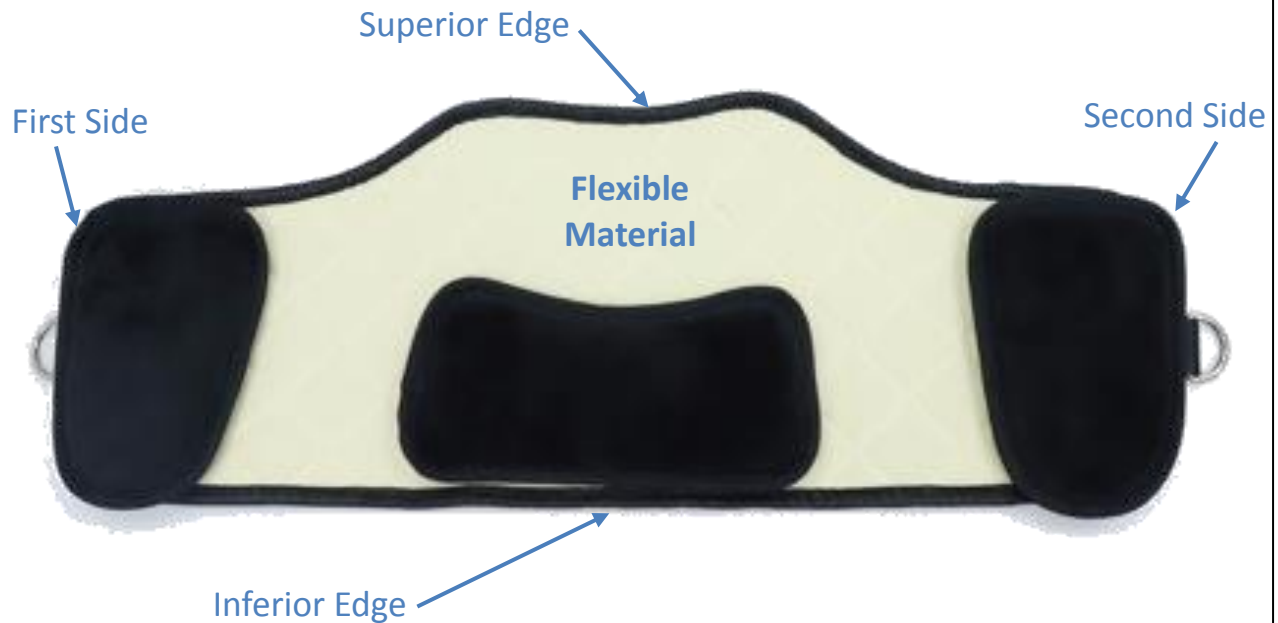
17 1. On June 14, 2018, United States Patent No. 10,307,284 was duly and legally issued
18 by the United States Patent and Trademark Office for an invention entitled “Portable Traction
19 Device with Sling.” A true and correct copy of the ’284 Patent is attached as Exhibit E.

20 64. Neck Hammock is the owner of the ’284 Patent.

21 65. Defendants have each infringed one or more claims of the ’284 Patent under 35
22 U.S.C. § 271(a) by, among other things, offering for sale, selling, importing, and/or distributing
23 the Accused Products in the United States.

24 66. The Accused Products include “a sling assembly” as required by claim 1 of the ’284
Patent, the “sling comprising flexible material and having a first side, a second side opposite the

1 first side, a superior edge, and an inferior edge,” as required by claim 1 of the ’284 Patent.



11 **Accused Product**

12 (<https://www.buyneckcomfort.com/en/pre-1b.html>)

13 67. The Accused Products include “the sling being elongated and sized to cradle and
14 engage an occipital bone portion of a user’s head via at least a frictional portion of the sling
15 disposed between the superior edge and the inferior edge of the sling when the first side extends
16 to a first side of the user’s head and the second side extends to a second side of the user’s head,”
17 as required by claim 1 of the ’284 Patent.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Elongated and sized to cradle and engage an occipital bone.



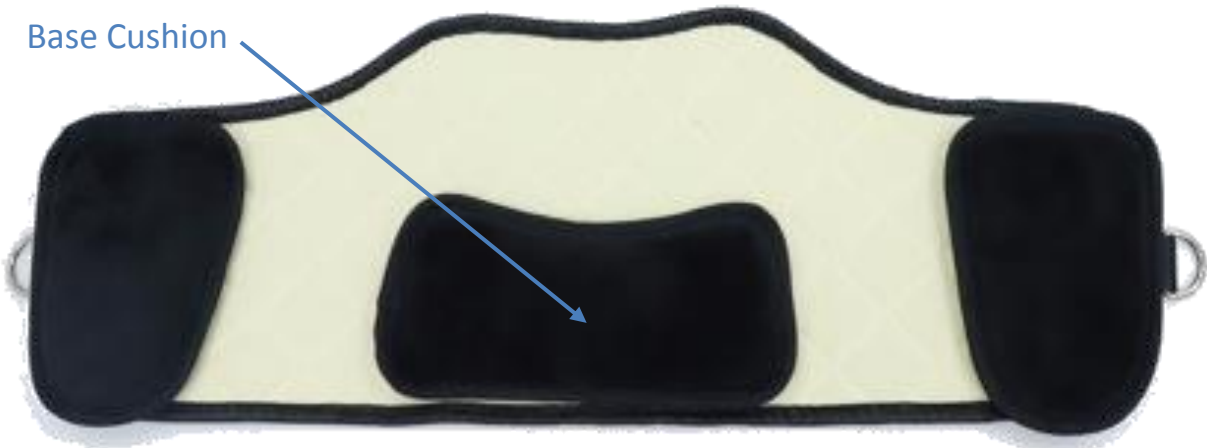
Frictional portion

Accused Product

<https://www.buynneckcomfort.com/en/pre-1b.html>

68. The Accused Products include “a base cushion attached to the sling between the superior edge and the inferior edge and approximately centered between the first and second sides of the sling,” as required by claim 1 of the ’284 Patent.

Base Cushion



Accused Product

<https://www.buynneckcomfort.com/en/pre-1b.html>

69. The Accused Products include “a first side cushion disposed between the base cushion and the and the first side of the sling,” and “a second side cushion disposed between the base cushion and the second side of the sling,” as required by claim 1 of the ’284 Patent.



9
10

Accused Product

<https://www.buyneckcomfort.com/en/pre-1b.html>

11
12
13

70. The Accused Products include “a pair of side attachments comprising a first side attachment extending from the first side of the sling and a second side attachment extending from the second side of the sling,” as required by claim 1 of the ’284 Patent.



22
23
24

Accused Product

<https://www.buyneckcomfort.com/en/pre-1b.html>

71. The Accused Products include “flexible elastic tethers operable to selectively attach to the pair of side attachments via first ends of the flexible elastic tethers,” as required by claim 1 of the ’284 Patent.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24



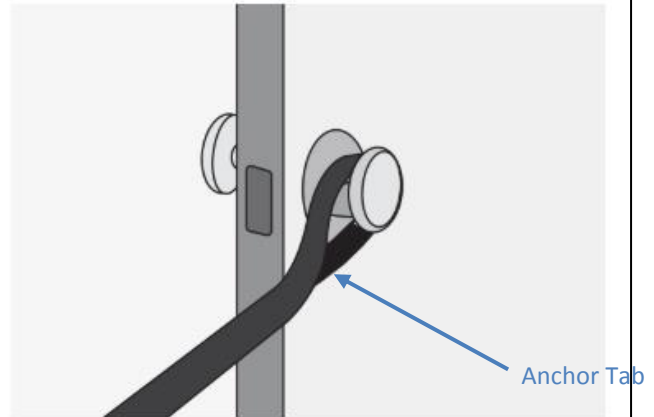
Accused Product

<https://www.buyneckcomfort.com/en/pre-1b.html>

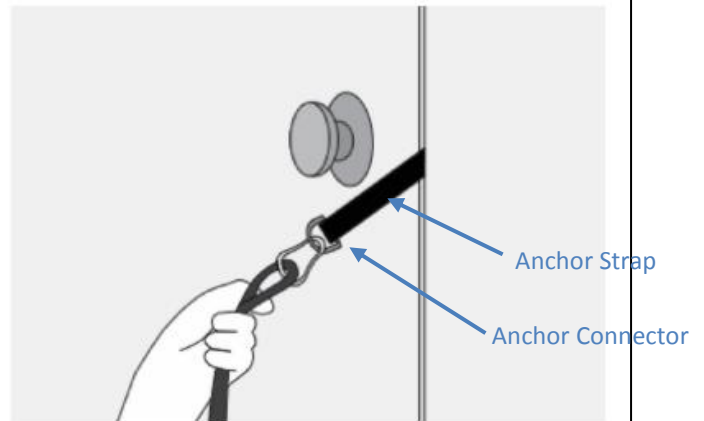
72. The Accused Products include “an anchor operable to selectively attach to the sling and to an anchoring object, wherein the anchor comprises: an anchor tab; an anchor connector operable to selectively attach to second ends of the flexible elastic tethers; and an anchor strap disposed between and connecting the anchor tab and the anchor connector.” as required by claim 1 of the '284 Patent.

//
//
//
//
//
//
//

1
2
3
4 Wrap the NeckKomfort around a
5 door or a secure railing



6
7
8
9
10
11 Attach it to the door handle or rail
12 and securely clip the device



13
14
15 **Accused Product**

<https://www.buyneckomfort.com/en/pre-1b.html>

16 73. Defendants have infringed at least claim 1 of the '284 Patent and one or more
17 additional claims of the '284 Patent under 35 U.S.C. § 271 by offering for sale, selling, importing,
18 and/or distributing the Accused Products in the United States.

19 74. Defendants have willfully infringed the '284 Patent with knowledge of the '284
20 Patent or were willfully blind to the patent and the risk of infringement.

21 75. Defendants' infringement of the '284 Patent has caused and continues to cause
22 damages to Neck Hammock.

23 76. As a result of the Defendants' infringement, Neck Hammock has been damaged
24 and is entitled to damages, costs, and attorneys' fees, in an amount to be proven at trial.

1 77. Defendants' infringement of the '284 Patent has caused and continues to cause
2 irreparable harm to Neck Hammock.

3 78. As a result of the Defendants' past and ongoing infringement, Neck Hammock is
4 entitled to injunctive relief.

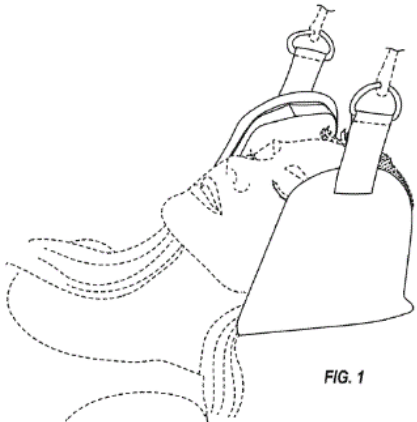

5 **FIFTH CAUSE OF ACTION**
6 **Infringement of the 'D035 Patent**
7 **35 U.S.C. § 271**

8 79. Neck Hammock incorporates and realleges each and every allegation in the
9 preceding paragraphs, as if fully set forth herein.

10 80. On July 24, 2018, United States Design Patent No. D824,035 was duly and legally
11 issued by the United States Patent and Trademark Office. A true and correct copy of the 'D035
12 Patent is attached as Exhibit F.

13 81. Neck Hammock is the owner of the 'D035 Patent.

14 82. Defendants have infringed and continue to infringe the 'D035 Patent by using,
15 selling and/or offering to sell in the United States, and/or importing into the United States one or
16 more of the Accused Products identified in this Complaint, such that an ordinary observer, familiar
17 with the prior art, would be deceived into thinking that the accused design was the same as the
18 patented design, as detailed below.

U.S. Patent No. D842,035	Accused Product
 <p>19 20 21 22 23 24</p>	 <p>(https://www.buyneckcomfort.com/en/pre-1b.html)</p>

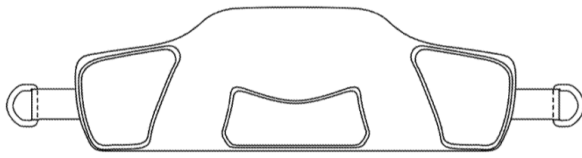


FIG. 4



(<https://www.buyneckcomfort.com/en/pre-1b.html>)

83. Defendants have willfully infringed the 'D035 Patent with knowledge of the 'D035 Patent or were willfully blind to the patent and the risk of infringement.

84. Defendants' infringement of the 'D035 Patent has caused and continues to cause damages to Neck Hammock.

85. As a result of the Defendants' infringement, Neck Hammock has been damaged and is entitled to damages, costs, and attorneys' fees, in an amount to be proven at trial.

86. Defendants' infringement of the 'D035 Patent has caused and continues to cause irreparable harm to Neck Hammock.

87. As a result of the Defendants' past and ongoing infringement, Neck Hammock is entitled to injunctive relief.

SIXTH CAUSE OF ACTION
Infringement of the 'D492 Patent
35 U.S.C. § 271

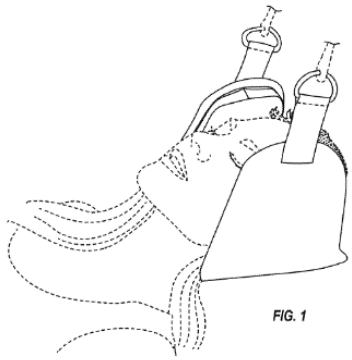



88. Neck Hammock incorporates and realleges each and every allegation in the preceding paragraphs, as if fully set forth herein.

89. On April 9, 2019, United States Design Patent No. D824,492 was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the 'D492 Patent is attached as Exhibit G.

90. Neck Hammock is the owner of the 'D492 Patent.

91. Defendants have infringed and continue to infringe the 'D492 Patent by using, selling and/or offering to sell in the United States, and/or importing into the United States one or

1 more of the Accused Products identified in this Complaint, such that an ordinary observer, familiar
 2 with the prior art, would be deceived into thinking that the accused design was the same as the
 3 patented design, as detailed below.

U.S. Patent No. D845,492	Accused Product
 <p>FIG. 1</p>	 <p>https://www.buyneckcomfort.com/en/pre-1b.html</p>
 <p>FIG. 3</p>	 <p>https://www.buyneckcomfort.com/en/pre-1b.html</p>

14
 15 92. Defendants have willfully infringed the 'D492 Patent with knowledge of the 'D492
 16 Patent or were willfully blind to the patent and the risk of infringement.

17 93. Defendants' infringement of the 'D492 Patent has caused and continues to cause
 18 damages to Neck Hammock.

19 94. As a result of the Defendants' infringement, Neck Hammock has been damaged
 20 and is entitled to damages, costs, and attorneys' fees, in an amount to be proven at trial.

21 95. Defendants' infringement of the 'D492 Patent has caused and continues to cause
 22 irreparable harm to Neck Hammock.

23 96. As a result of the Defendants' past and ongoing infringement, Neck Hammock is
 24 entitled to injunctive relief.

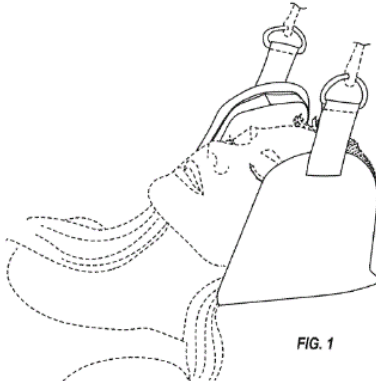

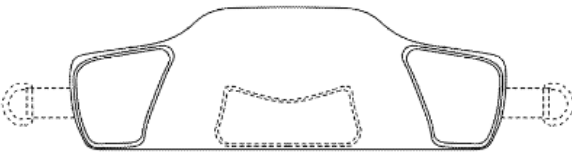

SEVENTH CAUSE OF ACTION
Infringement of the 'D494 Patent
35 U.S.C. § 271

97. Neck Hammock incorporates and realleges each and every allegation in the preceding paragraphs, as if fully set forth herein.

98. On April 9, 2019, United States Design Patent No. D824,494 was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the 'D494 Patent is attached as Exhibit H.

99. Neck Hammock is the owner of the 'D494 Patent.

100. Defendants have infringed and continue to infringe the 'D494 Patent by using, selling and/or offering to sell in the United States, and/or importing into the United States one or more of the Accused Products identified in this Complaint, such that an ordinary observer, familiar with the prior art, would be deceived into thinking that the accused design was the same as the patented design, as detailed below.

U.S. Patent No. D845,494	Accused Product
 <p style="text-align: center; margin-top: 5px;">FIG. 1</p>	 <p style="text-align: center; margin-top: 5px;">https://www.buyneckcomfort.com/en/pre-1b.html</p>
 <p style="text-align: center; margin-top: 5px;">FIG. 3</p>	 <p style="text-align: center; margin-top: 5px;">https://www.buyneckcomfort.com/en/pre-1b.html</p>

1
2 101. Defendants have willfully infringed the 'D494 Patent with knowledge of the 'D494
3 Patent or were willfully blind to the patent and the risk of infringement.

4 102. Defendants' infringement of the 'D494 Patent has caused and continues to cause
5 damages to Neck Hammock.

6 103. As a result of the Defendants' infringement, Neck Hammock has been damaged
7 and is entitled to damages, costs, and attorneys' fees, in an amount to be proven at trial.

8 104. Defendants' infringement of the 'D494 Patent has caused and continues to cause
9 irreparable harm to Neck Hammock.

10 105. As a result of the Defendants' past and ongoing infringement, Neck Hammock is
11 entitled to injunctive relief.

12 **EIGHTH CAUSE OF ACTION**
13 **Infringement of the 'D493 Patent**
14 **35 U.S.C. § 271**

15 106. Neck Hammock incorporates and realleges each and every allegation in the
16 preceding paragraphs, as if fully set forth herein.

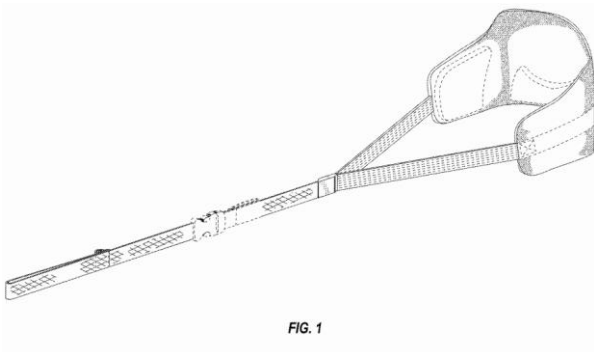
17 107. On April 9, 2019, United States Design Patent No. D824,493 was duly and legally
18 issued by the United States Patent and Trademark Office. A true and correct copy of the 'D493
19 Patent is attached as Exhibit I.

20 108. Neck Hammock is the owner of the 'D493 Patent.

21 109. Defendants have infringed and continue to infringe the 'D493 Patent by using,
22 selling and/or offering to sell in the United States, and/or importing into the United States one or
23 more of the Accused Products identified in this Complaint, such that an ordinary observer, familiar
24 with the prior art, would be deceived into thinking that the accused design was the same as the
patented design, as detailed below.

U.S. Patent No. D845,493

Accused Product



Accused Product Photo (12/17/2019)

110. Defendants have willfully infringed the 'D493 Patent with knowledge of the 'D493 Patent or were willfully blind to the patent and the risk of infringement.

111. Defendants' infringement of the 'D493 Patent has caused and continues to cause damages to Neck Hammock.

112. As a result of the Defendants' infringement, Neck Hammock has been damaged and is entitled to damages, costs, and attorneys' fees, in an amount to be proven at trial.

113. Defendants' infringement of the 'D493 Patent has caused and continues to cause irreparable harm to Neck Hammock.

114. As a result of the Defendants' past and ongoing infringement, Neck Hammock is entitled to injunctive relief.

PRAYER FOR RELIEF

Wherefore, Neck Hammock respectfully prays that the Court enter judgment in its favor and award the following relief against Defendants:

A. A judgment in favor of Neck Hammock that Defendants infringed the registered Neck Hammock Trademarks;

B. A judgment in favor of Neck Hammock that Defendants willfully infringed the

1 Neck Hammock Trademarks;

2 C. A judgment in favor of Neck Hammock that Defendants engaged in unfair
3 competition and unfair trade practices in violation of 15 U.S.C. § 1125.

4 D. An order and judgment enjoining Defendants and its officers, directors, employees,
5 agents, licensees, representatives, affiliates, related companies, servants, successors and assigns,
6 and any and all persons acting in privity or in concert with any of them, from infringing the
7 registered Neck Hammock Trademarks; from passing off Defendants' products as associated with
8 or sponsored or affiliated with Neck Hammock; for the destruction of any infringing articles; and
9 for reasonable funds for corrective advertising to correct Defendants' misleading association with
10 Neck Hammock;

11 E. A judgment awarding Neck Hammock damages in an amount to be determined at
12 trial, an accounting of Defendants' profits, and costs of the action pursuant to 15 U.S.C. § 1117.

13 F. Any other remedy to which Neck Hammock may be entitled, including all remedies
14 provided for in 15 U.S.C. § 1117 *et seq.*

15 G. A judgment in favor of Neck Hammock that Defendants infringed one or more
16 claims of each of the Neck Hammock Patents;

17 H. A judgment in favor of Neck Hammock that Defendants willfully infringed each of
18 the Neck Hammock Patents;

19 I. An order and judgment enjoining Defendants and its officers, directors, employees,
20 agents, licensees, representatives, affiliates, related companies, servants, successors and assigns,
21 and any and all persons acting in privity or in concert with any of them, from further acts of
22 infringement of the Neck Hammock Patents;

23 J. A judgment awarding Neck Hammock damages for infringement of the Neck
24 Hammock Patents pursuant to 35 U.S.C. § 284, together with prejudgment interest;

1 K. A judgment trebling damages pursuant to 15 U.S.C. § 1117 and 35 U.S.C. § 284;

2 L. A judgment that this is an exceptional case, pursuant to 15 U.S.C. § 1117 and 35
3 U.S.C. § 285, together with an award of Plaintiff's reasonable attorneys' fees.

4 M. A judgment in favor of Neck Hammock that Defendant DFO has infringed the
5 registered Neck Hammock Copyright;

6 N. A judgment in favor of Neck Hammock that Defendant DFO's infringement of the
7 registered Neck Hammock Copyright has been willful;

8 O. A judgment in favor of Neck Hammock that Neck Hammock is entitled to its actual
9 and/or statutory damages, and Defendants DFO's profits attributable to the infringement of the
10 Neck Hammock Copyright, in an amount to be proved at trial;

11 P. A judgment in favor of Neck Hammock that Neck Hammock is entitled to increased
12 damages pursuant to 17 U.S.C. § 504(c)(2) due to Defendants DFO's willful infringement;

13 Q. An order and judgment enjoining Defendant DFO and its officers, directors,
14 employees, agents, licensees, representatives, affiliates, related companies, servants, successors
15 and assigns, and any and all persons acting in privity or in concert with any of them, from
16 infringing the registered Neck Hammock Copyright;

17 R. Any other relief the Court deems just and proper under all the circumstances.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

1 **Demand for Trial by Jury**

2 Neck Hammock demands a jury trial on all matters triable to a jury pursuant to Fed. R. Civ.

3 P. 38.

4 DATED this 31st day of January, 2020.

5 **HOLLEY DRIGGS WALCH FINE**
6 **PUZEY STEIN & THOMPSON**

7 */s/ James D. Boyle*

8 JAMES D. BOYLE, ESQ. (Bar No. 08384)

9 jboyle@nevadafirm.com

JESSICA M. LUJAN, ESQ.

10 Nevada Bar No. 14913

400 South Fourth Street, Third Floor

11 Las Vegas, Nevada 89101

12 **WORKMAN | NYDEGGER**

13 BRENT P. LORIMER (PHV Forthcoming)

blorimer@wnlaw.com

14 BRIAN N. PLATT (PHV Forthcoming)¹

bplatt@wnlaw.com

60 East South Temple, Suite 1000

15 Salt Lake City, Utah 84111

16 *Counsel for Plaintiff The Neck Hammock, Inc.*

17
18
19
20
21
22
23
24

¹ Mr. Platt and Mr. Lorimer will comply with the requirements of LR IA 11-2 within twenty-one (21) days of filing this Complaint.