

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

NORIX GROUP, INC.,

Plaintiff,

v.

CORRECTIONAL TECHNOLOGIES, INC.,
d/b/a CORTECH USA, and VDL
INDUSTRIES, LLC, d/b/a AMERICAN
SHAMROCK,

Defendants.

Case No. 20-cv-01158

Honorable Gary S. Feinerman

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

Plaintiff Norix Group, Inc. (“Norix”), for its First Amended Complaint against defendants Correctional Technologies, Inc. d/b/a Cortech USA (“Cortech”) and VDL Industries, LLC d/b/a American Shamrock (“American Shamrock”), states as follows:

I. NATURE OF THE ACTION

1. This is an action for patent infringement in violation of 35 U.S.C. § 271. Norix brings this action to stop defendants from making, offering to sell, and selling intensive use beds that infringe U.S. Patent No. 10,507,150 (the “150 Patent”), which Norix owns. Further, Norix seeks to stop defendants from making, offering to sell, and selling intensive use shelves that infringe U.S. Patent No. 10,575,642 (the “642 Patent”), which Norix also owns. Norix seeks injunctive relief as well as compensation, enhanced damages, and attorney’s fees for defendants’ willful infringement.

II. PARTIES

2. Plaintiff Norix is an Illinois corporation with its principal place of business in West Chicago, Illinois. Founded in 1983, Norix is a leading designer, manufacturer, and distributor of

furniture and other products for use in health care applications and in demanding environments such as behavioral health institutions and correctional institutions. Norix offers furniture for use in numerous health care environments and in other environments where safety, security, and durability are high priorities, such as for public seating, transportation, camps and parks, college dorms, fire and police stations, emergency shelters, and military barracks. Norix employs 116 people in the Chicago area and sells its products nationwide.

3. Defendant Cortech is incorporated in the State of Illinois and has a regular and established place of business in Willowbrook, Illinois. Cortech is owned and operated by Joseph R. Claffy.

4. Defendant American Shamrock is incorporated in the State of Illinois and has a regular and established place of business in Willowbrook, Illinois. American Shamrock is owned and operated by Claffy, who also owns and operates Cortech. American Shamrock has no employees that are not also employees of Cortech. It owns the molds used to manufacture Cortech's intensive use furniture.

III. JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 1338.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)-(c) and 1400(b), because defendants are incorporated in the State of Illinois and have regular and established places of business in this judicial district, and because a substantial part of the acts or omissions giving rise to the claims, including defendants' acts of infringement, have occurred in this judicial district.

IV. FACTUAL BACKGROUND

A. Norix pioneered the use of molded furniture for intensive use applications and has been awarded multiple patents based on its inventions.

7. Norix has made significant investments in research and development in molded intensive use furniture, which has led to success in the marketplace.

8. The innovations of Norix's employees have earned several patents on intensive use furniture. Specifically, on October 5, 2007, Norix filed application No. 11/868,308 (the "'308 Application") with the United States Patent and Trademark Office ("USPTO"). The '308 Application has led to four patents, including the patents Norix seeks to enforce in this lawsuit.

9. "Intensive use furniture" is furniture for use in demanding environments such as behavioral health care facilities, as well as prisons, jails, detention centers, and psychiatric facilities.

10. The inventions described in the '308 Application filled a long-felt need in the furniture industry for a viable alternative to existing furniture made from steel, wood, or fiberglass for use in such demanding environments.

11. In such environments, traditional furniture made from wood and metal was susceptible to damage by the user and from exposure to bodily fluids, was not sufficiently safe for the user, allowed for the concealment of contraband, and was relatively difficult to secure to the floor or walls.

12. To address some of these problems, furniture manufacturers turned to fiberglass, but fiberglass furniture was difficult to manufacture, and it cracked and splintered under direct force.

13. The molded plastic furniture that Norix's employees invented and then disclosed in the '308 Application solved the problems with the furniture formerly used in institutional settings.

For example, Norix's molded plastic furniture is more resistant to damage by the user and damage by bodily fluids. It is also more durable, easier to clean, lighter, easier to attach to the floor or wall, and relatively easier to manufacture. Further, the invention enabled more aesthetically pleasing designs for furniture for use in these settings.

14. On August 30, 2011, the USPTO issued the first of four patents based on the '308 Application, U.S. Patent No. 8,007,059 (the "'059 Patent").

15. The intensive use furniture claimed in the '059 Patent has several innovative features, including a caulk channel that allows for a more effective contraband barrier where the furniture is mounted on the floor or wall.

16. The '059 Patent remains valid and enforceable today.

17. On July 20, 2011, before the '059 Patent issued, Norix filed application No. 13/186,853 ("the "'853 Application"). The '853 Application was based on the '308 Application and claimed the benefit of the filing date of the earlier application. The '853 Application was abandoned in 2012.

18. On April 19, 2012, before the '853 Application was abandoned, Norix filed application No. 13/450,508 (the "'508 Application").

19. The '508 Application also was based on the '308 Application, and it claimed the benefit of the filing dates of the two previous applications.

20. On May 30, 2017, the USPTO issued the second of four patents based on the '308 Application, U.S. Patent No. 9,661,933 (the "'933 Patent") from the '508 Application.

21. The intensive use beds claimed in the '933 Patent have several innovative features, including storage compartments molded in the outer shells of the beds.

22. The '933 Patent remains valid and enforceable today.

23. Defendants' intensive use beds with storage compartments infringe the '933 Patent. Norix's infringement claim against defendants based on the '933 Patent is one of the subjects of the pending lawsuit, captioned *Norix Group, Inc. v. Correctional Technologies, Inc. d/b/a Cortech USA and VDL Industries, LLC d/b/a American Shamrock*, Case No. 17-cv-07914, in the United States District Court for the Northern District of Illinois.

24. On May 1, 2017, before the '933 Patent issued, Norix filed application No. 15/583,955 (the "'955 Application").

25. The '955 Application also was based on the '308 Application, and it claimed the benefit of the filing dates of the three previously filed applications described above.

26. On December 17, 2019, the USPTO issued the third of four patents based on the '308 Application—the '150 Patent that is the subject of this lawsuit—from the '955 Application.

27. The intensive use beds claimed in the '150 Patent have several innovative features, including support ridges on the side and end walls and mounting flanges in the outer shell, as described further below.

28. On January 11, 2018, before the '150 Patent issued, Norix filed application No. 15/868,091 (the "'091 Application").

29. The '091 Application also was based on the '308 Application, and it claimed the benefit of the filing dates of the four previously filed applications described above.

30. On March 3, 2020, the USPTO issued the fourth of four patents based on the '308 Application, the '642 Patent that is the subject of this lawsuit—from the '091 Application.

31. The '642 Patent claims intensive use shelves that have several innovative features, including a J-bar configuration hangar support molded into the unit, as described further below.

32. Norix's patents on intensive use furniture, including the '150 Patent and the '642 Patent, reflect the innovative nature of Norix's products and the exclusive rights that Norix has earned to make, use, offer to sell, and sell its inventions. Norix's patents protect its rights in the marketplace for institutional furniture, in which contracts are often awarded through competitive bidding and in which customers often require bidders to certify that their products do not infringe other's intellectual property and to indemnify the customer against claims of patent infringement.

B. Norix's '150 Patent claims an innovative intensive use bed with features that have led to success in the marketplace.

33. Norix is the current assignee and the sole and exclusive owner of all rights, title, and interest in the '150 Patent. A true and correct copy of the Patent is attached as Exhibit A.

34. The '150 Patent claims a molded intensive use bed that solves numerous problems with existing intensive use beds, such as the susceptibility of existing beds to damage from the user, the ability to hide contraband in them, the difficulty of attaching such beds to the floor or walls, the difficulty of cleaning such beds, and their excessive weight, difficulty of manufacture, and cost.

35. For example, the first independent claim of the '150 Patent, Claim 1, has the following elements:

1. An intensive use bed comprising

a molded, non-penetrable outer shell having a generally horizontal top, a bottom, a pair of generally vertical end walls, a generally vertical first side wall, a generally vertical second side wall and a plurality of mounting flanges,

each of the generally vertical end walls on the top, the first generally vertical side wall on the top, the first side wall attached to and between the pair of end walls whereby the end walls are in spaced relation and substantially parallel to each other, the second generally vertical side wall on the top, the second side wall attached to and between the pair of end walls, the bottom on the pair of generally vertical end walls, the bottom attached to the first and second side

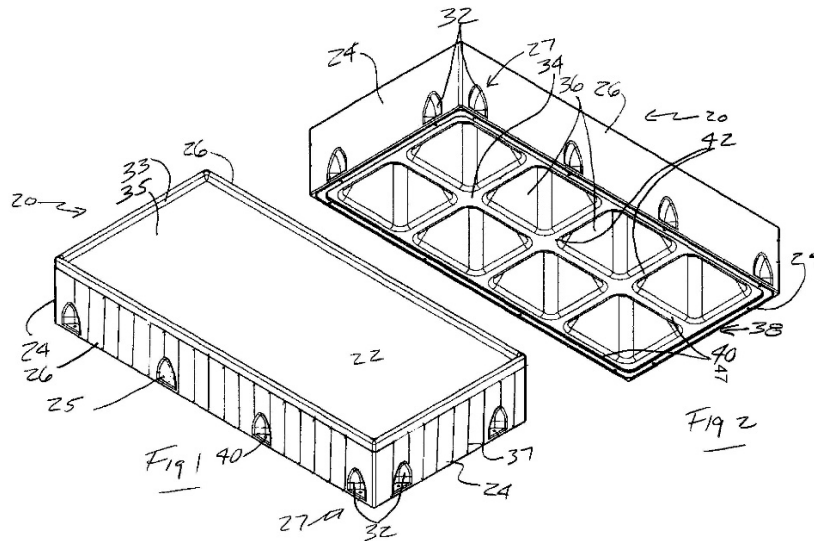
walls whereby the top and bottom are in spaced relation and substantially parallel to each other,

each of the plurality of mounting flanges comprising a bolt hole extending through the bottom, one of the plurality of mounting flanges disposed in a first one of the pair of end walls adjacent the bottom, another one of the plurality of mounting flanges disposed in the first side wall adjacent the bottom,

a first end support ridge in the first one of the pair of end walls, a first side support ridge disposed in the first side wall,

a recessed pocket in the top, a recessed pocket in the bottom.

36. An embodiment of Claim 1 is described in the '150 Patent and is depicted in Figures 1 and 2 of the '150 Patent, reproduced below:



37. Figures 1 and 2 of the '150 Patent show a bed having a molded outer shell with a top, bottom, two sides with support ridges, two ends with support ridges, mounting flanges in the side and end walls and adjacent the bottom, and recessed pockets in the top and bottom. The mounting flanges comprise bolt holes extending through the bottom.

38. Another embodiment of Claim 1 is the Norix Attenda Platform Bed, shown below:



39. The Norix Attenda Platform Bed has a molded outer shell with a top, bottom, two sides with support ridges, two ends with support ridges, mounting flanges in the side and end walls and adjacent the bottom, and recessed pockets in the top and bottom. The bottom of the Norix Attenda Platform Bed, not shown above, is like Figure 2 of the '150 Patent. The mounting flanges comprise bolt holes extending through the bottom.

40. The Norix Attenda Platform Bed and the other beds in Norix's Attenda product line overcame the problems with traditional wood, metal, and fiberglass beds in intensive use environments. Among other things, they are safer, more durable, easier to install, easier to maintain, and easier to manufacture than traditional beds.

41. The Norix Attenda Platform Bed and the other beds in Norix's Attenda product line have been tremendously successful in the marketplace. Norix was the first company to sell a molded plastic intensive use bed with the characteristics claimed in the '150 Patent, and it was the only such company from 2007 until Cortech introduced its competing Endurance Beds starting in 2012. Norix has sold tens of thousands of Attenda Beds from the introduction of the Attenda line to the present, and the Attenda line continues to be a top seller for Norix today.

C. Defendants' Endurance Beds infringe the '150 Patent.

42. In January 2012, defendants introduced a line of molded intensive use furniture called the "Endurance Series."

43. As part of the Endurance Series introduced in 2012, defendants introduced the “Endurance Bed,” a molded plastic intensive use bed with storage compartments. Below is an illustration of the original Endurance Bed, which Cortech presently markets as the “Endurance Bed 1.0,” from Cortech’s marketing materials:



44. The Endurance Bed 1.0, like all the Endurance Beds, is mounted to the floor using “concealed pilot holes” located in the side and end walls (not shown in the illustration above) through which Cortech instructs installers to drill and then insert a bolt or other fastener through the bottom of the bed. The bottom of the Endurance Bed 1.0 (not shown in the illustration above), like all the Endurance Beds, has recessed pockets.

45. A true and correct copy of the specification sheet for the original Endurance Bed, now marketed as the Endurance Bed 1.0, is attached as Exhibit B. The specification sheet shows the locations of the “concealed pilot holes” through which installers are instructed to drill and insert a bolt or other fastener through the bottom of the bed. The specification sheet also shows the locations of recessed pockets in the bottom of the bed.

46. In February 2014, defendants introduced the “Endurance Bed 2.0” as part of the Endurance Series. Below is an illustration of the Endurance Bed 2.0 from Cortech’s marketing materials:



47. The Endurance Bed 2.0 has optional side storage compartments in addition to the end storage compartments shown above. Cortech now also markets the Endurance Bed 2.0 with the optional side storage compartments as the “Endurance Bed 2.1.”

48. Other than the inclusion of side storage compartments, the Endurance Bed 2.1 is identical to the Endurance Bed 2.0.

49. Below is an illustration of the Endurance Bed 2.1 from Cortech’s marketing materials:



50. The Endurance Bed 2.0 and the Endurance Bed 2.1, like all the Endurance Beds, are mounted to the floor using “concealed pilot holes” located in the side and end walls (not shown in the illustration above of the Endurance Bed 2.0 but visible in the illustration of the Endurance Bed 2.1) through which Cortech instructs installers to drill and then insert a bolt or other fastener

through the bottom of the bed. The bottoms of the Endurance Bed 2.0 and the Endurance Bed 2.1 (not shown in the illustrations above), like all the Endurance Beds, have recessed pockets.

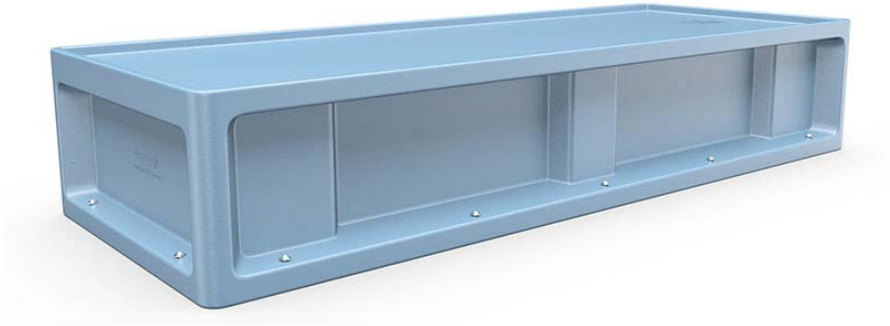
51. A true and correct copy of the specification sheet for the Endurance Bed 2.0 is attached as Exhibit C. The specification sheet shows the locations of the “concealed pilot holes” through which installers are instructed to drill and insert a bolt or other fastener through the bottom of the bed. The specification sheet also shows the locations of recessed pockets in the bottom of the bed.

52. On November 2, 2017, Norix filed a lawsuit against defendants for patent infringement based on Norix’s ’933 Patent. The claims of the ’933 Patent require a storage compartment molded in the outer shells of the beds. As of the date that the lawsuit was filed, all defendants’ Endurance Bed models had side storage compartments or end storage compartments, as shown above.

53. Defendants continued to sell the original Endurance Bed and the Endurance Bed 2.0 (with and without side storage compartments) after Norix filed its lawsuit based on the ’933 Patent. In addition, defendants introduced two new models of Endurance Bed, the “Endurance Bed 0.0” and the “Endurance Bed 2.2.”

54. Neither the Endurance Bed 0.0 nor the Endurance Bed 2.2 have storage compartments in the sides or ends of the beds. The Endurance Bed 0.0 has smaller overall dimensions than the Endurance Bed 2.0. Otherwise, the Endurance Bed 0.0 and the Endurance Bed 2.2 have the same features as the Endurance Bed 2.0.

55. Below is an illustration of the Endurance Bed 0.0 from Cortech’s marketing materials:



56. Below is an illustration of the Endurance Bed 2.2 from Cortech’s marketing materials:



57. The Endurance Bed 0.0 and the Endurance Bed 2.2, like all the Endurance Beds, are mounted to the floor using “concealed pilot holes” located in the side and end walls (not shown in the illustration above of the Endurance Bed 2.2 but visible in the illustration of the Endurance Bed 0.0) through which Cortech instructs installers to drill and then insert a bolt or other fastener through the bottom of the bed. The bottoms of the Endurance Bed 0.0 and the Endurance Bed 2.2 (not shown in the illustrations above), like all the Endurance Beds, have recessed pockets.

58. Cortech does not make specification sheets available on its website for the Endurance Bed 0.0 or the Endurance Bed 2.2. Upon information and belief, the bolt hole locations and bottoms of these beds are identical to or substantially the same as the bolt hole locations and bottom of the Endurance Bed 2.0.

59. Attached as Exhibit D is a claim chart comparing the asserted claims of the '150 Patent with the Endurance Beds.

60. The claim chart attached as Exhibit D also refers to additional annotated illustrations of the Endurance Beds and excerpts from Cortech's marketing materials, including Cortech's current catalog available on its website. The additional illustrations and excerpts are attached as Exhibit E (for the Endurance Bed 1.0), Exhibit F (for the Endurance Bed 2.0 without side storage), Exhibit G (for the Endurance Bed 2.0 with side storage / Endurance Bed 2.1), Exhibit H (for the Endurance Bed 2.2), and Exhibit I (for the Endurance Bed 0.0).

61. As shown in the claim chart attached as Exhibit D and Exhibits E-I, the Endurance Beds satisfy each element of each asserted claim.

62. As described in the claim chart attached as Exhibit D and Exhibits E-I, each Endurance Bed is an intensive use bed having a molded outer shell with a top, bottom, two sides with support ridges, two ends with support ridges, mounting flanges in the side and end walls and adjacent the bottom, and recessed pockets in the top and bottom. The mounting flanges comprise bolt holes extending through the bottom.

63. All the Endurance Beds that defendants offer for sale, sell, and manufacture thus infringe several claims of the '150 Patent, specifically Claims 1, 4-5, and 7-14. In addition, the Endurance Bed 1.0, Endurance Bed 2.0, and Endurance Bed 2.1 infringe Claims 2-3, which claim an intensive use bed with the elements described in Claim 1 and with storage compartments.

D. Norix's '642 Patent claims an innovative intensive use shelf with ligature resistant features demanded by the marketplace.

64. Norix is the current assignee and the sole and exclusive owner of all rights, title, and interest in the '642 Patent. A true and correct copy of the Patent is attached as Exhibit L.

65. The '642 Patent claims an intensive use shelf that solves numerous problems with existing intensive use furniture, such as the difficulty of making existing furniture ligature resistant, the susceptibility of existing furniture to damage from the user, the ability to hide contraband, the difficulty of cleaning such furniture, and excessive weight, difficulty of manufacture, and cost.

66. For example, the first independent claim of the '642 Patent, Claim 1, has the following elements:

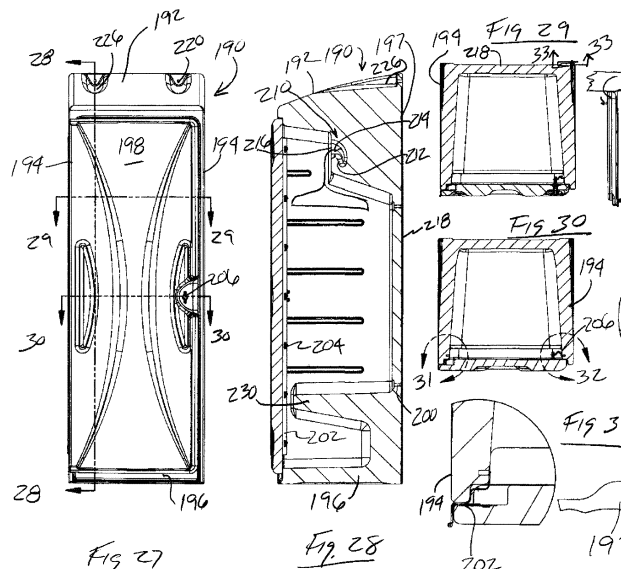
1. An intensive use shelf comprising:

a molded hollow outer shell having a ligature resistant top, a bottom, a back wall, a first side wall and a second side wall,

the top on the back wall, the bottom on the back wall spaced from the top, the first side wall on the back wall integrally molded to the top and bottom, the second side wall on the back wall integrally molded to the top and bottom, the first side wall spaced from the second side wall; and

a ligature resistant J-bar configuration hangar support.

67. An embodiment of Claim 1 is described in the '642 Patent and is depicted in Figures 27-30 of the '150 Patent, reproduced below:



68. Figures 27-30 of the '642 Patent show a shelf comprising a molded hollow outer shell having a ligature resistant top, a bottom, a back wall, and two side walls, and a ligature resistant J-bar configuration hangar support. The J-bar configuration hangar support allows for the storage of clothes on hangars without the need for a traditional rod, which could be used to support a ligature.

69. Another embodiment of Claim 1 is the Norix Attenda Wardrobe, shown below and described in the Norix Attenda Brochure attached as Exhibit M:



70. The Norix Attenda Wardrobe incorporates all of the elements of Claim 1 of the '642 Patent, including the J-bar configuration hangar support.

71. The Norix Attenda product line, including the Attenda Wardrobe when hangar storage is requested, has been tremendously successful in the marketplace because it met the demand for durable, economical, ligature resistant intensive use furniture and avoided the problems associated with the existing technology. Norix was the first company to sell a molded plastic intensive use shelf with the characteristics claimed in the '642 Patent, and it was the only such company from the time the Attenda Wardrobe was introduced until Cortech introduced its competing Endurance product line starting in 2012.

E. Defendants' Endurance 2 Shelf Wall Mount and Endurance 4 Shelf Wall Mount infringe the '642 Patent.

72. As part of the Endurance Series introduced in 2012, defendants introduced the "Endurance Wall Shelf." Below is an illustration of the shelf, which Cortech presently markets as the "Endurance 2 Shelf Wall Mount," from Cortech's marketing materials:



73. In 2014, defendants introduced the "Endurance 4 Shelf Wall Mount," which it sold in addition to the original "Endurance Wall Shelf." Below is an illustration of this shelf from Cortech's marketing materials:



74. Both the Endurance 2 Shelf Wall Mount and the Endurance 4 Shelf Wall Mount comprise a molded hollow outer shell having a ligature resistant top, a bottom, a back wall, and two side walls, and a ligature resistant J-bar configuration hangar support.

75. In its current catalog, Cortech markets both the Endurance 2 Shelf Wall Mount and the Endurance 4 Shelf Wall Mount as having “anti-ligature clothes hanger storage”. Below is a portion of the back cover of Cortech’s current catalog found on Cortech’s website, which shows the “anti-ligature clothes hanger storage” of the Endurance 2 Shelf Wall Mount in use:



76. Attached as Exhibit N is a claim chart comparing the asserted claims of the '642 Patent with the Endurance 2 Shelf Wall Mount and the Endurance 4 Shelf Wall Mount.

77. The claim chart attached as Exhibit N also refers to additional annotated illustrations of the Endurance 2 Shelf Wall Mount and the Endurance 4 Shelf Wall Mount and excerpts from Cortech’s marketing materials, including Cortech’s current catalog available on its website. The additional illustrations and excerpts are attached as Exhibit O (for the Endurance 2 Shelf Wall Mount) and Exhibit P (for the Endurance Bed 4 Shelf Wall Mount).

78. As shown in the claim chart attached as Exhibit N and Exhibits O-P, the Endurance 2 Shelf Wall Mount and the Endurance 4 Shelf Wall Mount satisfy each element of each asserted claim.

79. The Endurance 2 Shelf Wall Mount and the Endurance 4 Shelf Wall Mount that defendants offer for sale, sell, and manufacture thus infringe several claims of the '642 Patent, specifically Claims 1-8, 10-11, and 15-20. In addition, to the extent that the shelves have a sloping bottom shelf surface, they also infringe Claims 9, 12, and 13.

F. Defendants' infringement is willful.

80. On December 17, 2019, when the '150 Patent issued, counsel for Norix sent a letter to counsel for defendants. A true and correct copy of the letter is attached as Exhibit J.

81. The December 17, 2019 letter notified defendants of the issuance of the '150 Patent and of Norix's position that the Endurance Beds identified above infringe the '150 Patent.

82. Defendants' counsel responded by letter dated January 3, 2020. A true and correct copy of the letter is attached as Exhibit K. Nothing in defendants' counsel's January 3, 2020 letter states that defendants will cease their infringement.

83. Defendants continue to offer all the Endurance Beds for sale, notwithstanding full knowledge of the '150 Patent and their infringement.

84. On March 3, 2020, when the '642 Patent issued, counsel for Norix sent another letter to counsel for defendants notifying defendants of the issuance of the '642 Patent and of Norix's position that the Endurance Shelves identified above infringe the '642 Patent. A true and correct copy of the letter is attached as Exhibit Q.

85. Defendants have not responded to the March 3, 2020 letter, and defendants continue to offer the infringing Endurance 2 Shelf Wall Mount and Endurance 4 Shelf Wall Mount for sale, notwithstanding full knowledge of the '642 Patent and their infringement.

86. Defendants' conduct continues a pattern in which defendants have sought to take advantage of Norix's innovation by knowingly copying the features of Norix's products, including the features of Norix's Attenda Beds that are protected by the '933 Patent and the '150 Patent, for as long as possible, while also making false statements about whether defendants have applied for patents on the Endurance Beds for as long as possible.

87. For more than ten years prior to January 2008, Claffy sold Norix's products under a sales representative agreement between Cortech and Norix.

88. Claffy and Cortech were fully aware of the features of the Attenda Beds as early as 2007. In his capacity as a sales representative for Norix, Claffy marketed the Attenda product line, including the Attenda Beds, in 2007.

89. In late 2007, Norix terminated Cortech's sales representative agreement, effective on January 4, 2008.

90. Just months after the sales representative contract terminated, Claffy and Cortech began to compete against Norix with respect to products that Cortech formerly sold for Norix.

91. Cortech developed the Endurance furniture line, including the Endurance Beds, with full knowledge of the features and advantages of Norix's Attenda product line, including the Attenda Beds and the Attenda Wardrobe with the J-bar configuration hangar support.

92. Cortech sought to incorporate many of the features of the Attenda product line into the Endurance product line due to the success of Norix's invention in the marketplace. For example, Cortech has never developed or offered for sale a fiberglass bed.

93. Moreover, from 2012 through at least the end of 2017, defendants falsely claimed in their catalogs, brochures, website descriptions, and other advertisements that it had patent applications pending on its Endurance Beds.

94. Specifically, in the advertisements, defendants represented that the Endurance Series, including the Endurance Bed, the Endurance Bed 2.0, the Endurance 2 Shelf Wall Mount, and the Endurance 4 Shelf Wall Mount, were subject to “multiple design and utility patents pending.”

95. In fact, neither defendant nor anyone affiliated with either of them has ever filed any patent application relating to the Endurance Beds or the Endurance Shelves.

96. Defendants purportedly discontinued use of the false “multiple design and utility patents pending” statements in their advertising materials in late 2017 or early 2018. Defendants did so only after Norix sought confirmation of the truth of the statements.

97. Defendants did not issue any statements to correct the false “multiple design and utility patents pending” statements already circulated to the public and to existing and prospective customers. Defendants’ false statements continue to be available to the public and to existing and prospective customers today. As one example, defendants’ advertisements included false “multiple design and utility patents pending” statements embossed into the plastic shells of the Endurance Beds themselves, on top of each bed, next to Cortech’s logo and sales contact information. Those statements remain part of every Endurance Bed sold from 2012 through at least 2017, and nothing in defendants’ current advertising, catalogs, or online materials informs existing and prospective customers that those statements are false and always have been false.

98. Defendants incorporated the false “multiple design and utility patents pending” statements in its advertisements in part to deter others from competing with them.

99. Despite having falsely marketed its own products as being subject to pending patent applications for several years to deter others from competing, defendants have refused to stop

selling the Endurance Beds or the Endurance Shelves identified as infringing Norix's valid and enforceable patents, including the '150 Patent and the '642 Patent.

100. Accordingly, Norix has filed this lawsuit to enforce its patent rights, stop defendants' pattern or wrongful conduct, and seek compensation for defendants' ongoing, willful infringement.

COUNT I
INFRINGEMENT OF THE '150 PATENT
IN VIOLATION OF 35 U.S.C. § 271

101. Norix incorporates and re-alleges Paragraphs 1 through 100 of this First Amended Complaint as if fully set forth herein.

102. The USPTO duly and legally issued the '150 Patent on December 17, 2019.

103. Norix is the current assignee and the sole and exclusive owner of all rights, title, and interest in the '150 Patent.

104. As set forth in detail in the claim chart attached as Exhibit D, the Endurance Bed 1.0, Endurance Bed 2.0, Endurance Bed 2.1, Endurance Bed 2.2, and Endurance Bed 0.0 include all the elements of at least Claims 1, 4-5, and 7-14 of the '150 Patent.

105. As set forth in detail in the claim chart attached as Exhibit D, in addition, the Endurance Bed 1.0, Endurance Bed 2.0, and Endurance Bed 2.1 include all the elements of Claims 2-3 of the '150 Patent.

106. During the term of the '150 Patent and after receiving notice of the '150 Patent, Cortech has offered for sale and sold the Endurance Beds.

107. Knowing of the '150 Patent and of the infringement by the Endurance Beds, Cortech nevertheless has entered into or has continued to perform under agreements with third-party distributors under which the distributors offer to sell and sell the Endurance Beds.

108. Upon information and belief, American Shamrock owns the molds for all of the Endurance Beds and has caused them to be used to manufacture the Endurance Beds at all times during which Cortech has offered the models for sale.

109. Cortech and American Shamrock therefore have been, are currently, and unless enjoined will continue to infringe, contribute to the infringement of, and/or induce others to infringe one or more claims of the '150 Patent.

110. In taking the acts herein alleged to constitute induced infringement, defendants knew or should have known that their acts would result in the actual infringement by one or more of the defendants, Cortech's distributors, or customers, and defendants thereby intended such infringement. Defendants' acts did, in fact, induce such infringement of one or more claims of the '150 Patent.

111. With respect to the acts herein alleged to constitute contributory infringement, defendants knew that the products identified herein as having been supplied by defendants were especially made or especially adapted for use in an infringing combination, and that such specific products and/or components thereof were not staple articles or commodities of commerce suitable for substantial non-infringing use.

112. Defendants have willfully infringed and continue to willfully infringe one or more claims of the '150 Patent despite their knowledge of the '150 Patent and despite an objectively high likelihood that the manufacture and sale of the Endurance Beds infringe one or more claims of the '150 Patent.

113. As a direct and proximate consequence of defendants' infringement of the '150 Patent, Norix has suffered and will continue to suffer irreparable injury and damages, in an amount that an award of money would never be adequate to fully remedy, for which Norix is entitled to

relief. Norix seeks compensatory damages, exemplary damages, and attorney's fees, as well as injunctive relief against further infringement.

REQUEST FOR RELIEF

Norix respectfully requests that the Court enter judgment against defendants as follows:

- A. A determination that defendants have infringed the '150 Patent;
- B. A determination that defendants' infringement of the '150 Patent has been willful;
- C. An injunction against further infringement of the '150 Patent;
- D. An award of damages adequate to compensate Norix for defendants' infringement of the '150 Patent, including pre-judgment interest and costs;
- E. An award of all other damages permitted by 35 U.S.C. § 284;
- F. A determination that this is an exceptional case within the meaning of 35 U.S.C. § 285 and an award to Norix of its costs and reasonable attorneys' fees incurred in this action; and
- G. Such other relief as this Court deems just and proper.

COUNT II
INFRINGEMENT OF THE '642 PATENT
IN VIOLATION OF 35 U.S.C. § 271

114. Norix incorporates and re-alleges Paragraphs 1 through 100 of this First Amended Complaint as if fully set forth herein.

115. The USPTO duly and legally issued the '642 Patent on March 3, 2020.

116. Norix is the current assignee and the sole and exclusive owner of all rights, title, and interest in the '642 Patent.

117. As set forth in detail in the claim chart attached as Exhibit N, the Endurance 2 Shelf Wall Mount and the Endurance 4 shelf Wall Mount include all the elements of at least Claims 1-

8, 10-11, and 15-20 of the '642 Patent. In addition, to the extent that the shelves have a sloping bottom shelf surface, they also infringe Claims 9, 12, and 13.

118. During the term of the '642 Patent and after receiving notice of the '642 Patent, Cortech has offered for sale and sold the Endurance 2 Shelf Wall Mount and the Endurance 4 shelf Wall Mount.

119. Knowing of the '642 Patent and of the infringement by the Endurance 2 Shelf Wall Mount and the Endurance 4 shelf Wall Mount, Cortech nevertheless has entered into or has continued to perform under agreements with third-party distributors under which the distributors offer to sell and sell these products.

120. Upon information and belief, American Shamrock owns the molds for the Endurance 2 Shelf Wall Mount and the Endurance 4 shelf Wall Mount and has caused them to be used to manufacture the Endurance 2 Shelf Wall Mount and the Endurance 4 shelf Wall Mount at all times during which Cortech has offered the models for sale.

121. Cortech and American Shamrock therefore have been, are currently, and unless enjoined will continue to infringe, contribute to the infringement of, and/or induce others to infringe one or more claims of the '642 Patent.

122. In taking the acts herein alleged to constitute induced infringement, defendants knew or should have known that their acts would result in the actual infringement by one or more of the defendants, Cortech's distributors, or customers, and defendants thereby intended such infringement. Defendants' acts did, in fact, induce such infringement of one or more claims of the '642 Patent.

123. With respect to the acts herein alleged to constitute contributory infringement, defendants knew that the products identified herein as having been supplied by defendants were

especially made or especially adapted for use in an infringing combination, and that such specific products and/or components thereof were not staple articles or commodities of commerce suitable for substantial non-infringing use.

124. Defendants have willfully infringed and continue to willfully infringe one or more claims of the '642 Patent despite their knowledge of the '642 Patent and despite an objectively high likelihood that the manufacture and sale of the Endurance 2 Shelf Wall Mount and the Endurance 4 shelf Wall Mount infringe one or more claims of the '642 Patent.

125. As a direct and proximate consequence of defendants' infringement of the '642 Patent, Norix has suffered and will continue to suffer irreparable injury and damages, in an amount that an award of money would never be adequate to fully remedy, for which Norix is entitled to relief. Norix seeks compensatory damages, exemplary damages, and attorney's fees, as well as injunctive relief against further infringement.

REQUEST FOR RELIEF

Norix respectfully requests that the Court enter judgment against defendants as follows:

- A. A determination that defendants have infringed the '642 Patent;
- B. A determination that defendants' infringement of the '642 Patent has been willful;
- C. An injunction against further infringement of the '642 Patent;
- D. An award of damages adequate to compensate Norix for defendants' infringement of the '642 Patent, including pre-judgment interest and costs;
- E. An award of all other damages permitted by 35 U.S.C. § 284;
- F. A determination that this is an exceptional case within the meaning of 35 U.S.C. § 285 and an award to Norix of its costs and reasonable attorneys' fees incurred in this action; and
- G. Such other relief as this Court deems just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL CLAIMS SO TRIABLE.

Date: March 9, 2020

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Respectfully submitted,

NORIX GROUP, INC.

By: /s/ Daniel I. Konieczny
One of Its Attorneys

CERTIFICATE OF SERVICE

I certify that on March 9, 2020, I served a copy of the foregoing FIRST AMENDED COMPLAINT by email to counsel for Defendants listed below.

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