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9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION
13

14 T-MAX (HANGZHOU)
15 TECHNOLOGY CO., LTD., a Chinese
corporation,

16 Plaintiff,

17 v.

18 LUND MOTION PRODUCTS, INC.,
a Delaware corporation; and TRUCK
19 HERO, INC., a Delaware corporation.

20 Defendants.
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Case No. 8:20-cv-01058

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff T-Max (Hangzhou) Technology Co., Ltd. (“Plaintiff” or “T-Max”)
2 hereby pleads the following claim for patent infringement against Defendants Lund
3 Motion Products, Inc. (“Lund”) and Truck Hero, Inc. (“Truck Hero”) (collectively,
4 “Defendants”), and alleges as follows:

5 **I. THE PARTIES**

6 1. Plaintiff T-Max (Hangzhou) Technology Co., Ltd. is an entity organized
7 and existing under the laws of the People’s Republic of China with its principal place
8 of business at No. 5, Rd 5, Dongzhou Industrial Area, Fuyan City, Hangzhou, China
9 311401.

10 2. Defendant Lund Motion Products, Inc. is a Delaware corporation having
11 a principal place of business at 4325 Hamilton Mill Road, Suite 400 Buford, GA
12 30518.

13 3. Defendant Truck Hero, Inc. is a Delaware corporation having a principal
14 place of business at 5400 Data Court, Ann Arbor, MI 48108. On information and
15 belief, Truck Hero wholly owns Lund through several intermediary entities.

16 4. Lund and Truck Hero operate a facility in this district at 15651 Mosher
17 Ave., Tustin, CA 92780.

18 **II. JURISDICTION AND VENUE**

19 5. This is a civil action for patent infringement arising under the patent
20 laws of the United States, 35 U.S.C. § 100 *et seq.*, more particularly 35 U.S.C. §§
21 271 and 281.

22 6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331
23 and 1338.

24 7. Defendants are subject to personal jurisdiction in California because,
25 among other things, they have committed, aided, abetted, contributed to, induced, or
26 participated in the commission of patent infringement in this judicial district and
27 elsewhere that led to foreseeable harm and injury to T-Max. On information and
28 belief, Defendants design and manufacture the infringing products at their facility in

1 Tustin, California. Furthermore, Defendants' infringing products have been offered
2 for sale, sold, purchased, and/or used within this forum, including without limitation
3 by Defendants' distributors.

4 8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391
5 and 1400(a) and (b).

6 **III. THE ASSERTED PATENT**

7 9. T-Max is the owner by assignment of U.S. Patent 10,618,472, entitled
8 "Vehicle and Vehicle Step Apparatus with Multiple Drive Motors" ("the '472
9 patent"), which the United States Patent and Trademark Office lawfully and duly
10 issued on April 14, 2020. A true and correct copy of the '472 patent is attached hereto
11 as Exhibit 1.

12 **IV. GENERAL ALLEGATIONS**

13 10. T-Max is one of world's leading automotive accessory providers,
14 specializing in custom enhancements for off-road trucks. T-Max's products are used
15 by the most well-known truck modifiers and designers, and T-Max is continually
16 researching trends and materials in order to provide the most innovative accessories
17 to consumers.

18 11. T-Max has a large patent portfolio covering its innovative retractable
19 vehicle steps, including a family of patents that includes the '472 Patent. T-Max
20 marks its products practicing its patents by indicating that in the product manual
21 installation guides that T-Max ships with its products.

22 12. The products at issue are dual-motor retractable vehicle steps, also
23 known as retractable running boards, which attach to the side of a vehicle and are
24 capable of extending outward for use as a step and retracting inward at least partially
25 under the vehicle. Lund and T-Max directly compete for market share for dual-motor
26 vehicle step products covered by T-Max's '472 Patent.

27 13. Defendants operate a manufacturing facility in Tustin, California under
28 the "AMP Research" brand of more than 55,000 square feet with manufacturing and

1 assembly lines to produce AMP products for both automotive OEM and aftermarket
2 customers.

3 14. Defendants have designed, manufactured, marketed, offered to sell, and
4 sold within the United States dual-motor retractable vehicle steps to distributors as
5 well as specialty vehicle manufacturers. For example, Defendants operate a store on
6 Amazon.com which lists their products including dual-motor retractable vehicle
7 steps, and those products are sold through Amazon by Defendants' distributors.
8 Defendants market at least some of these dual-motor retractable vehicle steps under
9 the "PowerStep Xtreme" brand.

10 15. On information and belief, Defendants' dual-motor retractable vehicle
11 steps including "PowerStep Xtreme" that infringe claims of the '472 Patent were
12 designed and manufactured in the United States. Defendants have marketed, offered
13 to sell, and sold in the United States to other distributors in the United States dual-
14 motor retractable vehicle steps including "PowerStep Xtreme" that infringe claims
15 of the '472 Patent.

16 16. Defendants have also directly marketed, offered to sell, and sold dual-
17 motor retractable vehicle steps including "PowerStep Xtreme" through, for example,
18 their website <http://www.amp-research.com>, and at trade shows in the United States.
19 Defendants have been attending trade shows in the United States, such as the
20 Automotive Aftermarket Products Expo (AAPEX) and Specialty Equipment Market
21 Association (SEMA) in Las Vegas, Nevada to sell their dual-motor retractable
22 vehicle steps including "PowerStep Xtreme."

23 17. T-Max and Lund have been engaged in patent litigation since October
24 2017 involving Lund's assertion of its own patents against T-Max that purportedly
25 cover a single-motor vehicle step, which is dated technology compared to T-MAX's
26 patented-protected cutting-edge dual motor configurations, which are rapidly
27 becoming the industry standard in the vehicle step market.
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1 18. Lund has used its filing of that litigation against T-Max for marketing
2 and sales purposes by threatening and even suing T-Max's customers and potential
3 customers—many of whom are small business retailers and after-market installers—
4 to dissuade them from purchasing T-Max's cutting-edge dual motor step products
5 from T-Max's distributors, despite T-Max's better quality and lower prices when
6 compared to Lund.

7 19. Lund has threatened to sue and sued T-Max's customers and potential
8 customers including small business retailers and after-market installers, knowing
9 their cost of defense far outweighs their potential profits from re-sale of T-Max's
10 products. On information and belief, Lund is also improperly and anticompetitively
11 threatening T-Max's customers and potential customers that if those customers re-
12 sell any of T-Max's products, including products unrelated to the patents Lund is
13 asserting, Lund will withdraw its preferred pricing on all its products, including
14 products unrelated to the patents Lund is asserting. Thus, on information and belief,
15 Lund is improperly tying all of its products to the steps it alleges are covered by the
16 patents it is asserting against T-Max in litigation.

17 20. As part of that litigation, on information and belief, Lund must have
18 investigated T-Max's intellectual-property portfolio including the application that
19 would lead to the '472 Patent. Additionally, Truck Hero acquired Lund in May 2019,
20 while T-Max was engaged in litigation with Lund. As part of that acquisition and
21 associated due diligence, on information and belief, Truck Hero and Lund must have
22 investigated T-Max's intellectual-property portfolio including the application that
23 would lead to the '472 Patent.

24 21. Defendants' decision to sell dual-motor retractable vehicle steps
25 including "PowerStep Xtreme" was done with knowledge of, or willful blindness
26 with respect to, the '472 Patent. Defendants knew or were willfully blind to the
27 known risk that these products would infringe the '472 Patent.

22. Defendants' actions were egregious, willful, wanton, and done in reckless or callous disregard of, or with indifference to, T-Max's rights.

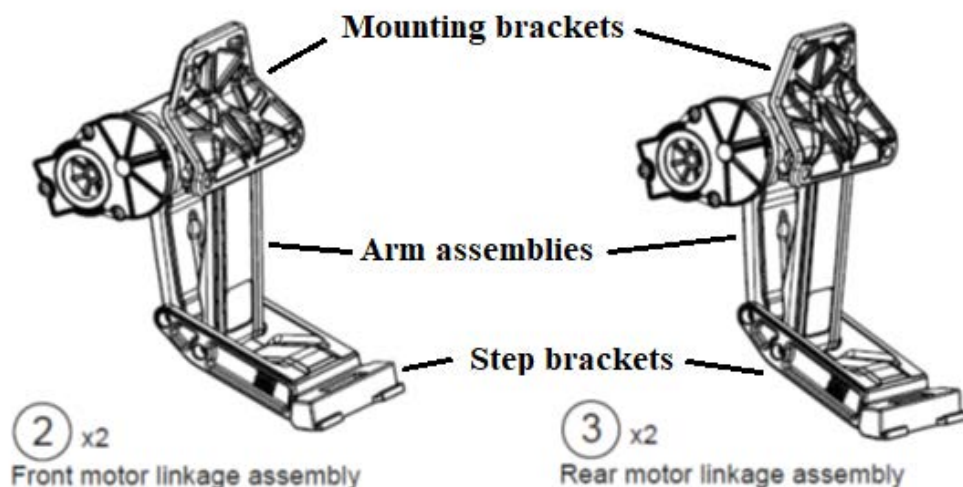
V. CLAIM 1 - INFRINGEMENT OF U.S. PATENT NO. 10,618,472

23. T-Max re-alleges and reincorporates the allegations set forth in paragraphs 1 through 18.

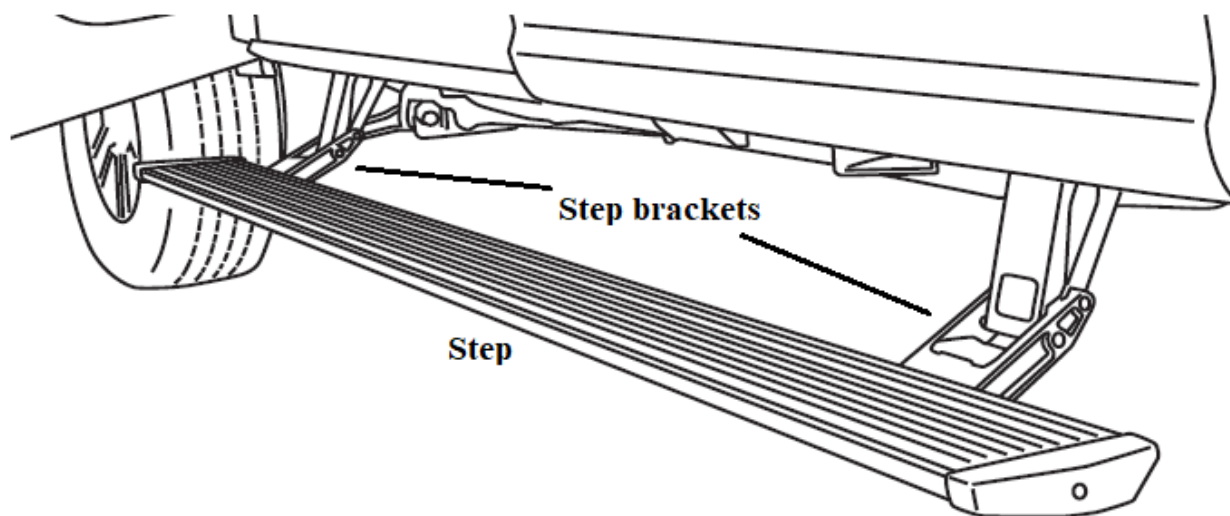
24. Defendants' have directly infringed one or more claims of the '472 Patent under 35 U.S.C. § 271(a) through the manufacture, use, sale, offer for sale, and/or importation into the United States of dual-motor retractable vehicle steps including "PowerStep Xtreme."

25. For example, Defendants' dual-motor retractable vehicle steps including "PowerStep Xtreme" include all of the limitations of Claim 1 of the '472 Patent.

26. The Defendants' dual-motor retractable vehicle steps including "PowerStep Xtreme" are motorized vehicle steps which incorporate two extending and retracting devices, with each such device comprising a mounting bracket attachable to a chassis of a vehicle, a step bracket, and an arm assembly coupled to the mounting bracket and step bracket, which drives the step brackets to move between an extended position and a retracted position, as shown by an annotated image from Defendants' installation guide (attached hereto as Exhibit 2, at 3):

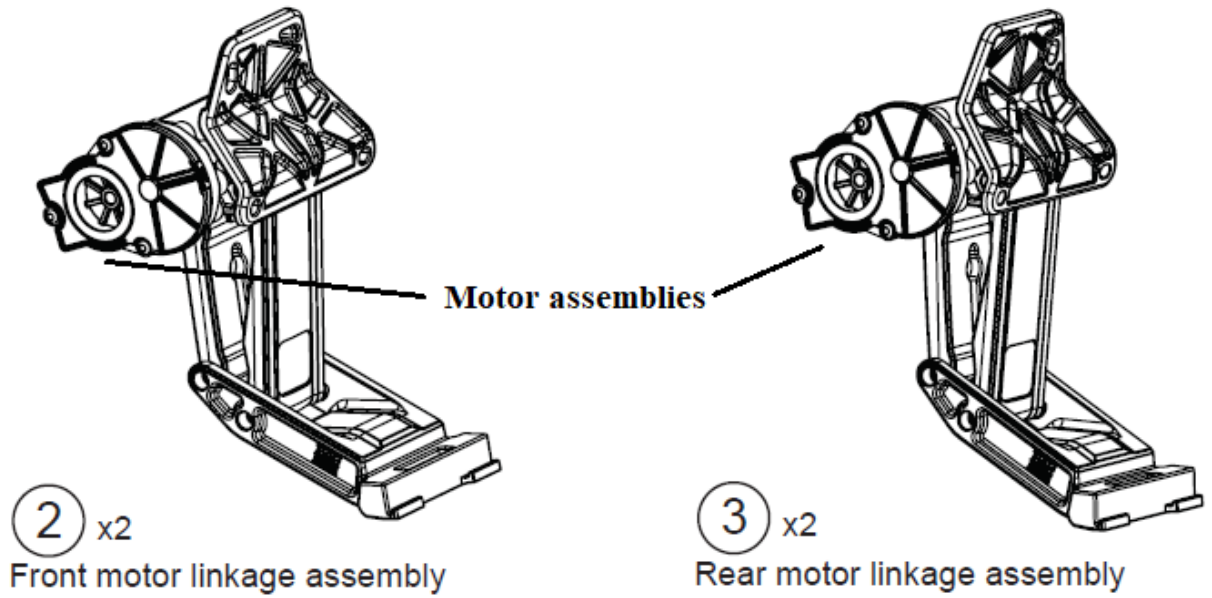


1 27. On the Defendants' dual-motor retractable vehicle steps including
2 "PowerStep Xtreme," the step is coupled to both step brackets, as shown by an
3 annotated image from Defendants' installation guide (Exhibit 2 at 10):



14 28. The Defendants' dual-motor retractable vehicle steps including
15 "PowerStep Xtreme" include two motor assemblies, with each such assembly
16 coupled to one of the arm assemblies, so as to (i) drive that arm assembly to move
17 the step bracket between the extended position and retracted position and (ii) retain
18 the step bracket in the retracted position by a reverse self-locking effect of the motor
19 assembly, as shown by an annotated image from Defendants' installation guide
20 (Exhibit 2 at 3):

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29. Each of the two motor assemblies in Defendant's dual-motor retractable vehicle steps including "PowerStep Xtreme" includes a motor having a worm on a rotatable shaft of the motor, and a worm gear operably coupled to the worm, wherein rotation of the rotatable shaft during an operation of the motor causes rotation of the worm gear in one rotational direction that causes the motor assembly to drive the step bracket, and wherein after the operation of the motor the rotatable shaft is prevented from rotation in the other rotational direction based at least on the worm and worm gear to create the reverse self-locking effect.

30. On the Defendants' dual-motor retractable vehicle steps including "PowerStep Xtreme," the two motor assemblies drive the two arm assemblies in unison and with synchronized motion as the step extends and retracts.

31. On the Defendants' dual-motor retractable vehicle steps including "PowerStep Xtreme," the two motor assemblies each comprise a gear system operably coupled to the worm gear, where that gear system performs substantially the same function, in substantially the same way, to obtain the same result as a planetary wheel drive assembly.

1 32. On information and belief, Defendants were aware of T-Max's
2 intellectual-property portfolio including the application that would lead to the '472
3 Patent through Lund's investigation of T-Max's patent portfolio during the
4 companies' ongoing patent litigation, and the investigation and due diligence that
5 occurred during Truck Hero's acquisition of Lund.

6 33. Defendants actively induce under 35 U.S.C. § 271(b) dealers, retailers,
7 distributors, and customers to directly infringe the asserted claims of the '472 Patent
8 by, for example, selling, offering for sale, importing, and/or using the infringing dual-
9 motor retractable vehicle steps including "PowerStep Xtreme," and by providing
10 directions, guides, manuals, training for use, and/or other materials necessary for the
11 installation, use, refurbishing, and/or servicing of the products in the United States.
12 For example, Defendants operate a store on Amazon.com which lists their products
13 including dual-motor retractable vehicle steps, and which encourages distributors to
14 directly sell those products on Amazon. Defendants acted with the knowledge that
15 the actions they induced would constitute infringement.

16 34. Defendants actively contribute under 35 U.S.C. § 271(c) to the
17 infringement by dealers, retailers, distributors, and customers of the '472 Patent by,
18 for example, selling, offering for sale, importing, and/or using the dual-motor
19 retractable vehicle steps including "PowerStep Xtreme," knowing the same to be
20 especially made or especially adapted for use in the infringement of the '472 Patent
21 when installed on a vehicle, and not a staple article of commerce suitable for
22 substantial non-infringing use. In fact, the steps have no other use other than being
23 installed on a vehicle.

24 35. Defendants' ongoing infringement of the '472 Patent is willful,
25 deliberate, and intentional by continuing its acts of infringement after becoming
26 aware of the '472 Patent and its infringement thereof, thus acting in reckless disregard
27 of T-Max's patent rights.
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1 36. As a consequence of Defendants' infringement of the '472 Patent, T-
2 Max has suffered and will continue to suffer irreparable harm and injury, for
3 example, in the form of lost sales, lost profits and loss of market share.

4 37. Unless enjoined, Defendants and/or others acting on behalf of
5 Defendants will continue their infringing acts, thereby causing additional irreparable
6 injury to T-Max for which there is no adequate remedy at law. Specifically, Lund's
7 actions have irreparably harmed T-Max's position in the dual-motor market by
8 causing a devastating erosion in T-Max's market share for dual-motor vehicle step
9 products covered by T-Max's '472 Patent.

10 **VI. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff T-Max prays for judgment and seeks the following
12 relief:

13 A. Pursuant to 35 U.S.C. § 271, a determination that Defendants and their
14 officers, agents, servants, employees, dealers, retailers, distributors, manufacturers,
15 attorneys and all others in active concert and/or participation with them have
16 infringed the '472 Patent;

17 B. Pursuant to 35 U.S.C. § 283, an injunction enjoining Defendants and
18 their officers, agents, servants, employees, dealers, retailers, distributors,
19 manufacturers, attorneys and all others in active concert and/or participation with
20 them from infringing the '472 Patent through the use, importation, offer for sale,
21 and/or sale of infringing products and/or any of the other acts prohibited by 35 U.S.C.
22 § 271;

23 C. Pursuant to 35 U.S.C. § 284, an award compensating T-Max for
24 Defendants' infringement of the '472 Patent through payment of not less than a
25 reasonable royalty on Defendants' sales of infringing products;

26 D. Pursuant to 35 U.S.C. § 284, an award increasing damages up to three
27 times the amount found or assessed by the jury for Defendants' infringement of the
28 '472 Patent in view of the willful and deliberate nature of the infringement;

1 E. Pursuant to 35 U.S.C. § 285, a finding that this is an exceptional case,
2 and an award of reasonable attorneys' fees and non-taxable costs;

3 F. An assessment of prejudgment and post-judgment interest and costs
4 against Defendants, together with an award of such interest and costs, pursuant to 35
5 U.S.C. § 284;

6 G. An order requiring Defendants to account to T-Max for any and all
7 profits derived by Defendants and all damages sustained by T-Max by virtue of
8 Defendants' unlawful acts complained of herein;

9 H. An award of taxable costs; and

10 I. Such other and further relief as the Court deems equitable and just under
11 the circumstances.

12 **DEMAND FOR JURY TRIAL**

13 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, T-Max
14 hereby demands a jury trial on all issues so triable.

15
16 DATED: June 12, 2020

PERKINS COIE LLP

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