

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

METAL PLESS INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 20-cv-1059
	)	
KAGE INNOVATION CORPORATION	)	
and KAGE INNOVATION, LLC	)	
	)	
Defendants	)	

**COMPLAINT**

Plaintiff, Metal Pless Inc. (“Metal Pless”), for its Complaint against Kage Innovation Corporation and Kage Innovation, LLC (collectively “Defendants”), states that this is an action for patent infringement under the patent laws of the United States, 35 U.S.C. §§ 271, 281, and 283-285. Metal Pless seeks, among other things, a preliminary injunction and a permanent injunction enjoining Defendants from continuing to infringe Metal Pless’s patents. Metal Pless also seeks damages for Defendants’ willful infringement of Metal Pless’s patents, as well as recovery of Metal Pless’s reasonable attorneys’ fees and costs it has incurred and will incur in prosecuting this action.

**THE PARTIES**

1. Metal Pless Inc. is a corporation organized and existing under the laws of Quebec, Canada, with its principal place of business at 1683, boulevard des Sucreries, Plessisville, Quebec, G6L, 1W4.

2. On information and belief, Defendant Kage Innovation Corporation is a corporation organized and existing under the laws of the State of Wisconsin, with its principal place of business at 502 Simmon Dr., Osceola, WI 54020;

3. On information and belief, Defendant Kage Innovation, LLC is a limited liability company organized and existing under the laws of the state of Minnesota, with its principal place of business at 502 Simmon Dr., Osceola, WI 54020;

### **JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, 35 U.S.C. §§ 271, 281, and 283-285. Subject matter jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 and 1338. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400.

5. On information and belief, Defendants have committed acts of infringement in this judicial district.

6. On information and belief, Defendants have regular and established places of business in this judicial district, both at the same address.

### **BACKGROUND**

7. Plaintiff Metal Pless is the owner by assignment of all right, title, and interest in and to United States Patent No. 9,611,604 (“the ‘604 Patent”) entitled “Scraper Blade Device for Cleaning a Surface and Method,” which duly and legally issued in the name of Jimmy Vigneault on April 4, 2017. A copy of the ‘604 Patent is attached to the Complaint as Exhibit A.

8. Plaintiff Metal Pless has sold snow scraping and removal products (“Patented Products”), including, for example, the Liveboxx model scraper blade device, that embody claims of the ‘604 Patent.

9. Plaintiff Metal Pless has enjoyed substantial commercial success from the sale of the Patented Products attributable to the patented features thereof.

10. Plaintiff Metal Pless has marked the Patented Products with the patent number of the ‘604 Patent by affixing a label directly under the serial number of the Patented Products.

11. Plaintiff Metal Pless has provided notice of infringement to Defendants at least as early as December 12, 2019 in a letter from Harold C. Moore addressed to Mike Stephan of Kage Innovation LLC, who is also the registered agent for Kage Innovation Corporation.

12. Upon information and belief, Kage has had knowledge of the ‘604 Patent since at least January 1, 2019.

13. Upon information and belief, Defendants manufacture, use, offer for sale, and/or sell snow plows and pushers having a trip edge mechanism together with a cutting edge system referred to in Defendants’ advertising literature as AdvantEdge.

14. Upon information and belief, Defendants manufacture, use, offer for sale, and/or sell the AdvantEdge cutting edge system (“the AdvantEdge”) specifically advertised for use on snow plows and push boxes with trip edge mechanisms.

15. Upon information and belief, Defendants have knowledge that installing the AdvantEdge on a snow plow or push box with a trip edge mechanism, and the use of the resulting combination, constitutes infringement of the '604 Patent.
16. Upon information and belief, Defendants manufacture, use, offer for sale and/or sell snow plows and push boxes having trip edge mechanisms with the AdvantEdge cutting edge system installed thereon (collectively the "Kage Plow").
17. Attached hereto as Exhibit B is a true copy of an on-line advertisement describing and depicting an example of a Kage Plow that includes a Kage SnowFire Pusher and an AdvantEdge cutting edge system (hereinafter "the Kage SnowFire").
18. Attached hereto as Exhibit C is an accurate depiction of a Kage SnowFire having added reference lines and numbers.
19. Attached hereto as Exhibit D is an accurate partially exploded diagram of the AdvantEdge on a plow blade with reference lines and numbers.
20. Defendants have used, offered to sell, and/or sold, and upon information and belief continues to use, offer to sell, and/or sell Kage Plows and/or the AdvantEdge with instructions to install the AdvantEdge on one or more snow plows and push boxes within this Judicial District that infringe one or more claims of the Patents-In-Suit.

**COUNT 1**  
**PATENT INFRINGEMENT OF THE '604 PATENT**

21. Plaintiff Metal Pless re-alleges and incorporates by reference the allegations set forth in paragraphs 1-20 above.

22. By using, selling, and/or offering for sale the Kage Plows, Defendants have directly infringed, and will continue to directly infringe, at least claim 1 of the '604 Patent under 35 U.S.C. § 271(a) literally and/or under the doctrine of equivalents.

23. Defendants' activities including the sale and offer for sale of the AdvantEdge and advertising the use of the AdvantEdge with snow plows and pushers having trip mechanisms constitute indirect infringement of claim 1 of the '604 patent under 35 U.S.C. 271(b).

24. Claim 1 of the '604 Patent recites a scraper blade device for cleaning a surface when moving in a forward travel direction relative to the surface.

25. The Kage SnowFire is a scraper blade device for cleaning a surface when moving in the forward direction relative to, for example, a road surface.

26. Claim 1 of the '604 Patent recites that the scraper blade device has a front surface and a lowermost edge.

27. Referring to Exhibit C, the Kage SnowFire has a front surface 10 as claimed, and a lowermost edge 12 as claimed.

28. Claim 1 of the '604 Patent recites an upper blade portion generally defining an upper area of the front surface of the scraper blade device.

29. Referring to Exhibit C, the Kage SnowFire includes an upper blade portion 14, as claimed.

30. Claim 1 of the '604 Patent recites a bottom blade portion generally defining a bottom area of the front surface of the scraper blade device, the bottom blade portion

including a plurality of widthwise-disposed blade segments that are adjoined and juxtaposed to one another.

31. Referring to Exhibit C, the Kage SnowFire includes a bottom blade portion 16 as claimed.

32. Referring to Exhibit C, the bottom blade portion 16 of the Kage SnowFire includes blade segments 18 that are disposed widthwise and adjacent to each other, and are adjoined and juxtaposed to one another. Each blade segment 18 has two bolts across its face.

33. Exhibit D shows one of the blade segments 18, blade segment 18a, removed from the plow blade to show the coupling structure 50 that couples the blade segment 18a to the blade.

34. Upon information and belief, the each of the blade segment 18 of the Kage Snowfire of Exhibit C is coupled using the coupling structure 50 of Exhibit D.

35. Claim 1 of the '604 Patent recites that each blade segment has an upper portion, a bottom portion, a front side face and a rear side face.

36. Referring to Exhibits C and D, each segment 18, 18a of the Kage SnowFire includes a plate that has an upper portion, a lower portion, a front side face, and a rear side face.

37. Claim 1 of the '604 Patent recites that the bottom portion of each blade segment includes a bottom edge and that the bottom edges of the blade segments form together the lowermost edge of the scraper blade device.

38. Referring to Exhibit C, the bottom edges of the segments 18 form together the lowermost edge 12 of the Kage SnowFire, as claimed.

39. Claim 1 of the '604 Patent recites that the bottom edge of each blade segment is independently slidably movable in an up and down movement with reference to the bottom edges of other blade segments in the bottom blade portion, and that the bottom edges are biased towards a downward working position by a plurality of first bias mechanisms.

40. Referring to Exhibit C, each of the segments 18 of the Kage SnowFire has a bottom edge that is independently slidably movable in an up and down movement. Referring to Exhibit D, the coupling structure 50 includes springs 20 that bias the segment 18 toward the downward working position.

41. Claim 1 of the '604 Patent recites that the blade segments are also pivotally movable rearwards, with reference to the forward travel direction, around a pivot axis that is substantially parallel to the lowermost edge of the scraper blade device.

42. With reference to Exhibit C, each of the segments 18 of the Kage SnowFire can move pivotally rearwards, as claimed. Upon information and belief, the pivot axis of the pivotal movement of the segments 18 is parallel to the lowermost edge 12.

43. Claim 1 of the '604 Patent recites that each bottom edge has a forward working position and a rearward tripped position where each bottom edge in the rearward tripped position is backwards underneath the scraper blade device, with reference to

the forward travel direction, compared to the forward working position of the bottom edge.

44. With reference to Exhibit C, all of the segments 18 of the Kage SnowFire are shown in the forward working position. The segments 18 can trip when they encounter an obstacle. When tripped, the segments 18 pivotally move rearward such that the bottom edge of the segments 18 is in a rearward tripped position.

45. Claim 1 of the '604 Patent further recites that the blade segments are biased forward around the pivot axis, with reference to the forward travel direction, by at least one second bias mechanism to urge the bottom edges of the blade segments towards the forward working position.

46. Upon information and belief, the Kage SnowFire includes a second bias mechanism including a spring that biases the segment 18 toward the forward travel direction and thus toward the forward working position, as claimed.

47. At least claim 1 of the '604 Patent reads literally on the Kage SnowFire.

48. Upon information and belief, at least claim 1 of the '604 Patent reads on other Kage Plows.

49. Upon information and belief, Defendants have been aware of its infringing activities since at least approximately January 1, 2019.

50. Upon information and belief, Defendants have been aware since prior to January 1, 2019 that the Patented Products are covered by the '604 Patent.



51. Upon information and belief, Defendants' infringement of at least claim 1 of the '604 Patent has been and continues to be willful and deliberate.

52. Upon information and belief, Defendants' infringement of at least claim 1 of the '604 Patent will continue unless enjoined by this Court.

53. As a direct and proximate consequence of Defendants' infringement of at least claim 1 of the '604 Patent, Metal Pless has suffered and will continue to suffer irreparable injury and damages in an amount not yet determined for which Metal Pless is entitled to relief.

#### **PRAYER FOR RELIEF**

WHEREFORE, Metal Pless requests entry of judgment in its favor and against Defendant Kage Innovation Corporation and Kage Innovation, LLC as follows:

- A. Declare that United States Letters Patent 9,611,604 was duly and legally issued, is valid and is enforceable;
- B. Enter judgment that Defendants have infringed at least claim 1 of the '604 Patent;
- C. Enter a preliminary and permanent injunction restraining and enjoining Defendants and their respective officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from any further sales or use of their infringing products and any other infringement of claims of the '604 Patent, whether direct or indirect, pursuant to 35 U.S.C. § 283;

- D. For damages to compensate Metal Pless for Defendants' infringement of the claims of the '604 Patent pursuant to 35 U.S.C. § 284;
- E. For enhanced damages pursuant to 35 U.S.C. § 284;
- F. For an award of pre-judgment and post-judgment interest and costs to Metal Pless in accordance with 35 U.S.C. § 284;
- G. Deem this to be an "exceptional" case within the meaning of 35 U.S.C. § 285, entitling Metal Pless to an award of its reasonable attorney fees, expenses and costs in this action;
- H. Grant to Metal Pless such other and further relief as the Court may deem just, proper, and equitable under the circumstances.

**DEMAND FOR JURY TRIAL**

Plaintiff Metal Pless respectfully demands a trial by jury on all claims and issues so triable.

Respectfully submitted this 20<sup>th</sup> day of November 2020.

PINES BACH LLP

/s/ Tamara B. Packard .

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*Attorneys for Plaintiffs*

*\*application for admission pro hac vice  
forthcoming*