

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

IP POWER HOLDINGS LIMITED,

Plaintiff,

-vs-

WEST MARINE INC.,

Defendant.

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff IP Power Holdings Limited (“Plaintiff” or “IP Power”), for its Complaint against Defendant West Marine Inc. (“Defendant”) for infringement of one or more claims of U.S. Patent No. 6,637,811 (the “‘811 Patent”), hereby alleges on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 et seq.

**PARTIES**

2. Plaintiff IP Power Holdings Limited is a British Virgin Islands corporation, with a principal place of business at P.O. Box 438, Road Town, Tortola, British Virgin Islands.

3. On information and belief, Defendant West Marine Inc. is a Delaware corporation with a principal place of business at 500 Westridge Drive Watsonville, CA 95077-0070.

**JURISDICTION AND VENUE**

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 et

seq. and this Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has jurisdiction over Defendant because Defendant has minimum contacts within the State of Delaware; Defendant has purposefully availed itself of the privileges of conducting business in Delaware; Defendant regularly conducts business within Delaware and is a Delaware corporation. Moreover, Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in Delaware, including Defendant's infringing conduct including without limitation Defendant's sale of infringing product in Delaware.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(b) because Defendant is a Delaware corporation, Defendant has committed acts of infringement in Delaware and Defendant has a regular and established place of business in Delaware.

### **FACTUAL BACKGROUND**

7. IP Power is the sole assignee and owner of the '811 Patent, and holds all rights, title and interest in and to the '811 Patent including the sole right to enforce the '811 Patent.

8. A true and correct copy of the '811 Patent is attached hereto as Exhibit 1.

9. The '811 Patent is directed to, *inter alia*, a collapsible chair with tensioned seat.

10. Since its issuance, the '811 Patent has been widely infringed by companies throughout the country operating in the outdoors and beach chair industries, including the past and present infringement by Defendant as alleged herein. IP Power is in full compliance with 35 U.S.C. §287(a) with respect to the '811 Patent.

11. By way of example, Claim 1 of the '811 Patent is directed to: A collapsible chair, comprising: a pair of front legs, a pair of rear legs, a pair of back support rods, a seat having a

first side and a second side, and a cross brace with a first and second end, the first end coupled to one of the rear legs, and the second end slidably coupled to one of the back support rods via a coupling element; wherein the coupling element further slidably couples one of the front legs to the one of the back support rods; wherein the first and second sides of the seat are coupled along at least part of their length to the pair of rear legs, respectively, such that the seat is supported between the rear legs; and wherein the front legs, the rear legs, the cross brace, and the back support rods are coupled in a manner such that the chair collapses in a single movement in which the front legs approximate each other when the seat pivots towards the back support rods.

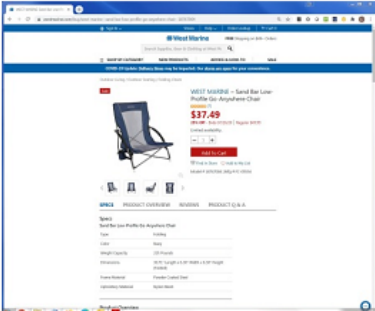



12. Defendant manufactures and/or sells, *inter alia*, boating and outdoor related products through its own website at <https://www.westmarine.com> and/or through traditional brick and mortar retail stores, including its own brick and mortar stores in this judicial district.

13. Defendant sells, *inter alia*, outdoor related products including its “West Marine Sand Bar Low Profile Go-Anywhere chair,” (hereinafter “the Accused Product.”) Defendant has and continues to sell the Accused Product throughout the United States including through its own website at <https://www.westmarine.com/buy/west-marine--sand-bar-low-profile-go-anywhere-chair--18767004> and in its nationwide brick and mortar stores.

14. The Accused Product infringes one or more claims of the ‘811 Patent as set forth *infra*.

15. By way of example, the Accused Product infringes at least Claim 1 of the ‘811 Patent as evidenced by the claim chart below.

## U.S. Patent No. 6,637,811 Claim Chart

<i>Plaintiff's Patent No. 6,637,811 Claim 1</i>	<i>Defendant's West Marine Sand Bar Low Profile Chair</i>
A collapsible chair, comprising:	<p>The accused product's webpage describes the product as a folding chair:</p> 
a pair of front legs, a pair of rear legs, a pair of back support rods, a seat having a first side and a second side, and a cross brace with a first and second end, the first end coupled to one of the rear legs, and the second end slidably coupled to one of the back support rods via a coupling element;	<p>These elements are all seen in this photograph of the accused product:</p> 
wherein the coupling element further slidably couples one of the front legs to the one of the back support rods;	<p>The sliding coupling element of the accused product is depicted here:</p> 
wherein the first and second sides of the seat are coupled along at least part of their length to the pair of rear legs, respectively, such that the seat is supported between the rear legs; and	<p>The seat of the accused product is supported between the rear legs:</p> 
wherein the front legs, the rear legs, the cross brace, and the back support rods are coupled in a manner such that the chair collapses in a single movement in which the front legs approximate each other when the seat pivots towards the back support rods.	<p>As noted, the product webpage describes the accused product as a folding chair, otherwise known as a collapsible chair, which is folded inside the case.</p> <p>Thus, all limitations of Claim 1 are satisfied.</p>

16. Defendant has had at least constructive knowledge of the ‘811 Patent since the ‘811 Patent’s issuance on October 28, 2003.

17. Moreover, Defendant has had at least actual knowledge of the ‘811 Patent no later than December 31, 2020, when IP Power wrote to Defendant by letter and advised Defendant of its infringement of the ‘811 Patent, attaching a copy of the same thereto.

18. Through at least its offers and actual sales of the Accused Product, Defendant has and continues to infringe at least one or more claims of the ‘811 Patent.

19. In view of at least Defendant’s constructive and actual knowledge of the ‘811 Patent since at least December 31, 2020, Defendant’s infringement is willful under 35 U.S.C. § 285 thereby entitling IP Power Holding to treble damages.

20. Because of its infringing acts, Defendant has caused damages to IP Holdings in an amount to be determined by the Court, but no less than a reasonable royalty.

**COUNT 1**  
**(Direct Infringement of the ‘811 Patent)**

21. The foregoing paragraphs are included by reference as if fully set forth herein.

22. On October 28, 2003, U.S. Patent No. 6,637,811, entitled, “COLLAPSIBLE BEACH CHAIR WITH TENSIONED SEAT” (the “811 Patent”), was duly and legally issued by the United States Patent and Trademark Office (“USPTO”).

23. Plaintiff IP Power is the sole assignee and owner of all rights, title and interest in and to the ‘811 Patent and possesses all rights of recovery under the ‘811 Patent, including the sole right to sue for infringement and recover past and current damages.

24. The ‘811 Patent claims a collapsible chair that has a pair of front legs, a pair of rear legs, a pair of back support rods, a seat, and a cross brace that slidably couples one of the back support rods to one end of the cross brace and one of the front legs. The legs, support rods

and cross brace are coupled such that the chair collapses in a single movement in which the front legs approximate each other when the seat pivots towards the back support rods.

25. On information and belief, and in violation of 35 U.S.C. § 271(a), Defendant has literally and under the doctrine of equivalents, infringed at least Claim 1 of the '811 Patent by, among other things, making, using, importing, offering for sale, and/or selling collapsible chairs with each of the limitations of the asserted '811 Patent claims, including, but not limited to, the Accused Product.

26. Defendant has and continues to sell the Accused Product in the United States as described *supra*.

27. The Accused Product infringes at least Claim 1 of the '811 Patent because it contains all of the limitations of that claim. Specifically, Claim 1 of the '811 Patent requires that an accused product be comprised of: A collapsible chair, comprising: a pair of front legs, a pair of rear legs, a pair of back support rods, a seat having a first side and a second side, and a cross brace with a first and second end, the first end coupled to one of the rear legs, and the second end slidably coupled to one of the back support rods via a coupling element; wherein the coupling element further slidably couples one of the front legs to the one of the back support rods; wherein the first and second sides of the seat are coupled along at least part of their length to the pair of rear legs, respectively, such that the seat is supported between the rear legs; and wherein the front legs, the rear legs, the cross brace, and the back support rods are coupled in a manner such that the chair collapses in a single movement in which the front legs approximate each other when the seat pivots towards the back support rods.

28. As can be seen in the claim chart provided *supra*, the Accused Product meets each limitation of Claim 1 of the '811 Patent and therefore infringes the same.

29. Prior to filing suit, IP Power disclosed to Defendant the '811 Patent by letter of December 30, 2020.

30. Prior to the filing of this suit, Defendant had knowledge of the '811 Patent as described above.

31. Defendant's infringement of the '811 Patent has been and continues to be, willful, deliberate and intentional, as Defendant continued its acts of infringement after being placed on active and constructive notice of the '811 Patent and its infringement, thus acting in reckless disregard of IP Power's rights and justifying treble damages.

32. This is an exceptional case and IP Power is entitled to an award of its reasonable attorney fees under 35 U.S.C. § 285.

#### **PRAYER FOR RELIEF**

WHEREFORE, IP Power respectfully requests from this Court the following relief:

- A. Judgment that the Defendant has infringed one or more claims of the '811 Patent;
- B. Grant of a permanent injunction that Defendant, its officers, agents, attorneys, employees, and those acting in privity or concert with them, including distributors, retailers and customers, be enjoined from further infringement of the '811 Patent;
- C. Award of damages in an amount adequate to compensate IP Power for Defendant's infringement of the '811 Patent;
- D. Award of enhanced damages in the form of treble damages for willful infringement of the '811 Patent pursuant to 35 U.S.C. §284;
- E. Award of IP Power's reasonable attorneys' fees and costs pursuant to 35 U.S.C. § 285;
- F. Award of pre-judgment and post-judgment interest; and

G. Such other further relief as this Court may deem just and proper.

**REQUEST FOR JURY TRIAL**

Plaintiffs request a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure of all issues raised that are triable by jury.

Dated: September 29, 2021

Respectfully submitted,

Of Counsel:

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