

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

THE ERGO BABY CARRIER, INC.

Plaintiff,

vs.

BABYBJÖRN AB,

Defendant.

Case No. 6:24-cv-0083

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff The Ergo Baby Carrier, Inc. hereby sets forth its Complaint for patent infringement against Defendant BabyBjörn AB, as follows.

THE PARTIES

1. The Ergo Baby Carrier, Inc. (“Ergobaby”) is a Hawaiian corporation with a principal place of business at 2041 East Street, Suite 831, Concord, California 94520.

2. BabyBjörn AB (“BabyBjorn”) is a Swedish company with its principal place of business in Sweden.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. §§ 271, 281–285, and 289, and Ergobaby seeks monetary damages and injunctive relief herein. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. BabyBjorn is subject to this Court’s personal jurisdiction under the principles of due process and Federal Rule of Civil Procedure 4(k)(2) because Ergobaby’s claims arise under federal law, service was made or will be made on BabyBjorn, and, on information and belief, BabyBjorn is not subject to jurisdiction in any state’s courts of general jurisdiction. Exercising

jurisdiction over BabyBjorn is also consistent with the United States Constitution and laws. BabyBjorn has availed itself of the laws and commercial markets of the United States by importing goods, including the accused products, into the United States and marketing, offering to sell, and selling goods, including the accused products described herein, in the United States. BabyBjorn is also currently availing itself of the laws and forums of the United States by asserting patent infringement claims against Ergobaby in Case No. 2:23-cv-00446 in the United States District Court for the Central District of California. As part of its Complaint in that action, BabyBjorn asserts and alleges that it is an owner of United States patent rights and that “Ergo Baby is a direct competitor of BabyBjörn in the United States” (**Exhibit 6** , ¶ 15.) BabyBjorn also asserts in that same Complaint that it has “marked” products with certain U.S. patent numbers “both physically and via its website” pursuant to 35 U.S.C. § 287(a), which applies to “[p]atentees, and persons making, offering for sale, or selling within the United States any patented article for or under them, or importing any patented article into the United States.” (*Id.*, ¶¶ 14, 20.)

5. Alternatively, BabyBjorn purposefully directs its infringing activities at issue to this District and the state of Texas by bringing accused products into and/or marketing, offering for sale, and selling such accused products in this District and the state of Texas. BabyBjorn therefore committed the wrongful acts identified in this Complaint in this District and in the state of Texas, and regularly conducts and solicits business, engages in other persistent courses of conduct, and derives substantial revenue from the sale of products to persons and entities in this District and in the state of Texas. Exercising jurisdiction over BabyBjorn is otherwise reasonable comports with fair-play and justice.

6. Venue is proper in this District under 28 U.S.C. § 1391(c)(3) because BabyBjorn is not resident in the United States.

FACTUAL BACKGROUND

7. Ergobaby is a leading maker of innovative, ergonomic baby products that enable and encourage bonding. Approximately two decades ago, Ergobaby's founder was dissatisfied with existing baby carrier products and set out to create something that was beneficial for her baby as well as comfortable and easy for parents to use. The result was the first Ergobaby Baby Carrier, a soft structured carrier that revolutionized baby carrying and became the gold standard of babywearing.

8. Ergobaby has continued to be an innovator and pioneer in the baby carrying space ever since. With carrier styles to suit every family, Ergobaby has become the most recommended baby carrier manufacturer, carrying millions of babies all over the world. These carriers are now available to support families through two babywearing journeys: All-in-One (with products including the Omni Breeze, Omni Dream, or Aerloom) and Ages & Stages (with products including the Embrace, Aura Wrap, 360, and Hip Seat).

9. By way of example, Ergobaby's Omni Breeze (shown below left) and Omni Dream (shown below right) are everyday carriers providing users with easy adjustability and multiple ergonomic carry modes for babies of all ages.



10. As evidence of its innovation in the space, Ergobaby is the holder of numerous patents in the United States and beyond relating to its baby carriers. This includes U.S. Patent No. 11,786,055.

11. U.S. Patent No. 11,786,055 (the “‘055 Patent”), attached as **Exhibit 1**, is directed to an “Adjustable Child Carrier,” and represents novel advancements in child carriers. Ergobaby is the lawful assignee of all right, title, and interest in and to the ‘055 Patent, including the right to assert all causes of action arising under the patent and the right to any and all remedies for infringement of it. The ‘055 Patent was legally issued on October 17, 2023, and is valid.

12. Independent Claim 1 of the ‘055 Patent is representative of the invention:

An adjustable child carrier for supporting a child by a user, the adjustable child carrier comprising:
a body configured to support the child, wherein the body forms a bucket seat configured to support legs of the child;
a neck support comprising a first neck support attachment and a second neck support attachment;
a first shoulder strap coupled to the body and configured to extend over a first shoulder of the user;
a second shoulder strap coupled to the body and configured to extend over a second shoulder of the user;
a first attachment disposed on the first shoulder strap and configured to receive the first neck support attachment;
a second attachment disposed on the second shoulder strap and configured to receive the second neck support attachment,
wherein the neck support is configured in an upward neck supporting position when the first neck support attachment is coupled to the first attachment and the second neck support attachment is coupled to the second attachment;
the body forming a first thigh support and a second thigh support;
a first setting, a second setting, and a third setting defined by the adjustable child carrier;
and
at least one thigh support adjuster coupled to the first thigh support and the second thigh support,
wherein the at least one thigh support adjuster is configured to be selectively positioned to one of the first setting, the second setting, or the third setting to thereby adjust a length of the body to accommodate various sizes of the child as the child ages,
wherein the length is defined from a bottom of the bucket seat to a top of the body.

13. Ergobaby is and has been making and selling baby carrier products that incorporate the invention claimed in the '055 patent, including at least the Omni Breeze and Omni Dream products, which Ergobaby has marked with the '055 patent number via its website.

14. BabyBjorn directly competes with Ergobaby in the United States in the baby carrier space.

15. Among other baby carrier products, BabyBjorn currently imports into the United States, and/or manufactures, uses, sells, and offers for sale the BabyBjorn Baby Carrier Mini in the United States (<https://www.babybjorn.com/products/baby-carriers/baby-carrier-mini/>), depicted below. The Owner's Manual describing the features and functionality of the BabyBjorn Baby Carrier Mini is attached as **Exhibit 2** (excerpts of which appear in Ergobaby's claim chart described below).



16. The BabyBjorn Baby Carrier Mini practices every limitation, either literally or under the doctrine of equivalents, of the claims of Ergobaby's '055 Patent, including at least Claim

1 set forth above. Attached as **Exhibit 3** is an exemplary claim chart evidencing in detail how the BabyBjorn Baby Carrier Mini practices Claim 1 of the '055 Patent.

17. BabyBjorn also currently imports into the United States, and/or manufactures, uses, sells, and offers for sale the BabyBjorn Baby Carrier Free in the United States (<https://www.babybjorn.com/products/baby-carriers/baby-carrier-free/>), depicted below. The Owner's Manual describing the features and functionality of the BabyBjorn Baby Carrier Free is attached as **Exhibit 4** (excerpts of which appear in Ergobaby's claim chart described below).



18. The BabyBjorn Baby Carrier Free practices every limitation, either literally or under the doctrine of equivalents, of the claims of Ergobaby's '055 Patent, including at least Claim 1 set forth above. Attached as **Exhibit 5** is an exemplary claim chart evidencing in detail how the BabyBjorn Baby Carrier Free practices Claim 1 of the '055 Patent.

19. Ergobaby has not given BabyBjorn permission, license, or authorization to practice or use Ergobaby's patented technology embodied in the '055 Patent.

20. BabyBjorn currently markets, offers for sale, and sells the BabyBjorn Baby Carrier Mini and BabyBjorn Baby Carrier Free in the United States in direct competition against Ergobaby's products, including but not limited to the Omni Breeze and Omni Dream products. Ergobaby has lost and will continue to lose customers, sales, and goodwill to BabyBjorn as a result of BabyBjorn's infringement of the '055 Patent.

21. BabyBjorn's infringement also irreparably harms Ergobaby by depriving Ergobaby of the use and control of its patented technology and patent rights and by piggybacking on all of the benefits related thereto that should rightfully accrue to Ergobaby. BabyBjorn's infringement through the importation, manufacture, use, sale, and offer to sell the BabyBjorn Baby Carrier Mini and BabyBjorn Baby Carrier Free has injured, is injuring, and will continue to cause irreparable injury to Ergobaby if BabyBjorn is not preliminarily and permanently enjoined.

22. BabyBjorn knew or should have known that its actions constitute infringement of the '055 Patent, and yet BabyBjorn has continued in its infringement. Thus, BabyBjorn's infringement is willful and continuing, and this case is exceptional under 35 U.S.C. § 285.

FIRST CAUSE OF ACTION

(Infringement of the '055 Patent under 35 U.S.C. § 271)

23. Ergobaby incorporates by reference all previous allegations as though set forth fully here.

24. BabyBjorn has infringed and continues to infringe one or more claims of the '055 Patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by making, using, offering to sell, selling, and/or importing in or into the United States its Baby Carrier Mini and Baby Carrier Free products.

25. BabyBjorn's infringing acts are without license or authorization from Ergobaby.

26. As a direct and proximate result of BabyBjorn's infringement of the '055 Patent, Ergobaby has suffered and will continue to suffer injury for which it is entitled to damages under 35 U.S.C. § 284 adequate to compensate it for such infringement, in an amount to be proven at trial, as well as enhanced damages. Ergobaby's damages include its lost profits, but are in no event less than a reasonable royalty.

27. As a direct and proximate result of BabyBjorn's infringement of the '055 Patent, Ergobaby has also suffered irreparable injury for which it has no adequate remedy at law. Unless BabyBjorn is preliminarily and permanently enjoined from further infringement of the '055 Patent, Ergobaby will continue to suffer irreparable injury and impairment of the value of its patent rights.

PRAYER FOR RELIEF

28. In light of the foregoing, plaintiff Ergobaby respectfully prays for the following relief against BabyBjorn:

A. A judgment that BabyBjorn has infringed one or more of the claims of the '055 Patent directly (either literally or under the doctrine of equivalents);

B. A preliminary and permanent injunction enjoining BabyBjorn, its officers, directors, employees, agents, representatives, parent companies, subsidiaries, and affiliates, and all persons acting in active concert or participation therewith, from engaging in any continued infringement of the '055 Patent;

C. An award of all damages to which Ergobaby is entitled under 35 U.S.C. § 284 for all past and continuing infringement, including but not limited to all lost profits and/or reasonable royalties, and an order requiring a full accounting of the same;

D. A trebling of damages and a finding that this case is exceptional under 35 U.S.C. § 285, as well as an award of all of the attorneys' fees incurred by Ergobaby in this action;

E. An assessment of interest, both pre- and post-judgment, on the damages awarded;

F. An award of costs incurred by Ergobaby in bringing and prosecuting this action; and

G. Any other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Ergobaby hereby demands a jury trial on all issues so triable.

Dated: February 9, 2024

Respectfully submitted,

LATHROP GPM LLP

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