

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

PERGO (EUROPE) AB and PERGO, LLC,)	
)	
)	
Plaintiffs,)	Civil Action No. _____
)	
v.)	
)	
UNILIN BEHEER B.V., FLOORING INDUSTRIES)	JURY DEMANDED
LIMITED, SARL, FLOORING INDUSTRIES LIMITED,)	
and UNILIN FLOORING, N.C. LLC.,)	
)	
Defendants.)	
)	

PLAINTIFFS' ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Pergo (Europe) AB and Pergo, LLC (collectively, “Pergo” or “Plaintiffs”) hereby bring this complaint for patent infringement against Defendants Unilin Beheer B.V., Flooring Industries Limited, sarl, Flooring Industries Limited, and Unilin Flooring N.C., LLC (collectively, “Unilin” or “Defendants”).

THE PARTIES

1. Pergo, LLC is a Delaware Limited Liability Company with its principal place of business in Raleigh, North Carolina.
2. Pergo (Europe) AB is a Swedish corporation having its principal place of business in Trelleborg, Sweden.
3. Upon information and belief, Unilin Beheer B.V. is a Dutch corporation with its principal place of business in Ijssel, Netherlands.
4. Upon information and belief, Flooring Industries Limited, sarl is a Luxembourg corporation with its principal place of business in Bertrange, Luxembourg.

5. Upon information and belief, Flooring Industries Limited is an Irish corporation with its principal place of business in Dublin, Ireland.

6. Upon information and belief, Unilin Flooring N.C., LLC is a North Carolina Limited Liability Company with its principal place of business in Thomasville, North Carolina.

7. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 5,744,220 (“the ‘220 patent”) to Peter Ringö. The ‘220 patent, entitled “Thermosetting Laminate”, was duly and legally issued by the United States Patent and Trademark Office (“PTO”) on April 28, 1998. A true and correct copy of the ‘220 patent is attached hereto as Exhibit A.

8. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 6,397,547 B1 (“the ‘547 patent”) to Göran Mårtensson. The ‘547 patent, entitled “Flooring Panel or Wall Panel and Use Thereof”, was duly and legally issued by the PTO on June 4, 2002. A true and correct copy of the ‘547 patent is attached hereto as Exhibit B.

9. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 6,421,970 B1 (“the ‘970 patent”) to Göran Mårtensson and Magnus Külick. The ‘970 patent, entitled “Flooring Panel or Wall Panel and Use Thereof”, was duly and legally issued by the PTO on July 23, 2002. A true and correct copy of the ‘970 patent is attached hereto as Exhibit C.

10. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 6,517,935 B1 (“the ‘935 patent”) to Sven Kornfält, Per Bengtsson and Hans Sjölin. The ‘935 patent, entitled “Process for the Production of Floor Strip”, was duly and legally issued by the PTO on February 11, 2003. A true and correct copy of the ‘935 patent is attached hereto as Exhibit D.

11. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 6,565,919 B1 (“the ‘919 patent”) to Krister Hansson, Johan Lundgren, and Hakan Wernersson. The ‘919 patent, entitled “Process for the Manufacturing of Surface Elements”, was duly and legally issued by the PTO on May 20, 2003. A true and correct copy of the ‘919 patent is attached hereto as Exhibit E.

12. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 6,601,359 B2 (“the ‘359 patent”) to Ola Olofsson. The ‘359 patent, entitled “Flooring Panel or Wall Panel”, was duly and legally issued by the PTO on August 5, 2003. A true and correct copy of the ‘359 patent is attached hereto as Exhibit F.

13. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 6,606,834 B2 (“the ‘834 patent”) to Göran Mårtensson and Magnus Külick. The ‘834 patent, entitled “Flooring Panel or Wall Panel and Use Thereof”, was duly and legally issued by the PTO on August 19, 2003. A true and correct copy of the ‘834 patent is attached hereto as Exhibit G.

14. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 6,805,951 B2 (“the ‘951 patent”) to Sven Kornfält, Per Bengtsson and Hans Sjölin. The ‘951 patent, entitled “Process for the Production of a Floor Strip”, was duly and legally issued by the PTO on October 19, 2004. A true and correct copy of the ‘951 patent is attached hereto as Exhibit H.

15. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 6,860,074 B2 (“the ‘074 patent”) to Oliver Stanchfield. The ‘074 patent, entitled “Transition Molding”, was duly and legally issued by the PTO on March 1, 2005. A true and correct copy of the ‘074 patent is attached hereto as Exhibit I.

16. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 7,065,931 B2 (“the ‘931 patent”) to Sven Kornfält, Per Bengtsson, Hans Sjölin and Oliver Stanchfield. The ‘931 patent, entitled “Floor Strip”, was duly and legally issued by the PTO on June 27, 2006. A true and correct copy of the ‘931 patent is attached hereto as Exhibit J.

17. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 7,131,242 B2 (“the ‘242 patent”) to Göran Mårtensson and Magnus Külick. The ‘242 patent, entitled “Flooring Panel or Wall Panel and Use Thereof”, was duly and legally issued by the PTO on November 7, 2006. A true and correct copy of the ‘242 patent is attached hereto as Exhibit K.

18. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 7,150,134 B2 (“the ‘134 patent”) to Sven Kornfält, Per Bengtsson, Hans Sjölin and Oliver Stanchfield. The ‘134 patent, entitled “Floor Strip”, was duly and legally issued by the PTO on December 19, 2006. A true and correct copy of the ‘134 patent is attached hereto as Exhibit L.

19. Pergo (Europe) AB is the sole and exclusive owner of U.S. Patent No. 7,255,040 B2 (“the ‘040 patent”) to Åke Sjöberg. The ‘040 patent, entitled “Process for the Manufacturing of Panels Having a Decorative Surface”, was duly and legally issued by the PTO on August 14, 2007. A true and correct copy of the ‘040 patent is attached hereto as Exhibit M.

20. Pergo (Europe) AB has granted to Pergo, LLC an exclusive U.S. license to exploit certain of the Pergo patents identified above in Paragraphs 7 through 19 (hereinafter, collectively, “the Pergo patents”).

JURISDICTION AND VENUE

21. This action arises under the patent laws of the United States, 35 U.S.C. § 101, *et seq.* This Court has jurisdiction over the claims asserted herein pursuant to 35 U.S.C. §§ 1331 and 1338(a).

22. Upon information and belief, this Court has personal jurisdiction over Defendants because Defendants regularly conduct business within this judicial district and have committed acts of patent infringement within this judicial district.

23. Upon information and belief, venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because Defendants reside in this judicial district by virtue of conducting regular and substantial business in this judicial district.

COUNT I

(Infringement of United States Patent No. 5,744,220)

24. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

25. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '220 patent.

26. Defendants' infringement of the '220 patent has occurred with knowledge of the '220 patent, and thus has been willful.

COUNT II

(Infringement of United States Patent No. 6,397,547 B1)

27. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

28. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '547 patent.

29. Defendants' infringement of the '547 patent has occurred with knowledge of the '547 patent, and thus has been willful.

COUNT III
(Infringement of United States Patent No. 6,421,970 B1)

30. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

31. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '970 patent.

32. Defendants' infringement of the '970 patent has occurred with knowledge of the '970 patent, and thus has been willful.

COUNT IV
(Infringement of United States Patent No. 6,517,935 B1)

33. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

34. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '935 patent.

35. Defendants' infringement of the '935 patent has occurred with knowledge of the '935 patent, and thus has been willful.

COUNT V
(Infringement of United States Patent No. 6,565,919 B1)

36. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

37. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '919 patent.

38. Defendants' infringement of the '919 patent has occurred with knowledge of the '919 patent, and thus has been willful.

COUNT VI
(Infringement of United States Patent No. 6,601,359 B2)

39. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

40. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '359 patent.

41. Defendants' infringement of the '359 patent has occurred with knowledge of the '359 patent, and thus has been willful.

COUNT VII
(Infringement of United States Patent No. 6,606,834 B2)

42. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

43. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '834 patent.

44. Defendants' infringement of the '834 patent has occurred with knowledge of the '834 patent, and thus has been willful.

COUNT VIII
(Infringement of United States Patent No. 6,805,951 B2)

45. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

46. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '951 patent.

47. Defendants' infringement of the '951 patent has occurred with knowledge of the '951 patent, and thus has been willful.

COUNT IX
(Infringement of United States Patent No. 6,860,074 B2)

48. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

49. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '074 patent.

50. Defendants' infringement of the '074 patent has occurred with knowledge of the '074 patent, and thus has been willful.

COUNT X
(Infringement of United States Patent No. 7,065,931 B2)

51. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

52. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '931 patent.

53. Defendants' infringement of the '931 patent has occurred with knowledge of the '931 patent, and thus has been willful.

COUNT XI
(Infringement of United States Patent No. 7,131,242 B2)

54. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

55. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '242 patent.

56. Defendants' infringement of the '242 patent has occurred with knowledge of the '242 patent, and thus has been willful.

COUNT XII
(Infringement of United States Patent No. 7,150,134 B2)

57. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

58. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '134 patent.

59. Defendants' infringement of the '134 patent has occurred with knowledge of the '134 patent, and thus has been willful.

COUNT XIII
(Infringement of United States Patent No. 7,255,040 B2)

60. Plaintiffs incorporate herein by reference Paragraphs 1 through 23 of this Complaint as if set forth in full.

61. In violation of 35 U.S.C. § 271, Defendants have made, used, offered for sale, sold and/or imported in or into the United States laminate flooring products that infringe one or more claims of the '040 patent.

62. Defendants' infringement of the '040 patent has occurred with knowledge of the '040 patent, and thus has been willful.

PRAYER FOR RELIEF

WHEREFORE, PERGO prays for judgment against the Defendants as follows:

- (i) A preliminary and permanent injunction preventing Defendants, and all those in concert with them, from continuing infringement of the Pergo patents;
- (ii) A judgment that Defendants have infringed the Pergo patents, either directly, contributorily, or by inducement, in violation of 35 U.S.C. § 271;
- (iii) A judgment that Defendants' infringement of the Pergo patents was willful;
- (iv) An order, pursuant to 35 U.S.C. § 284, awarding Pergo damages adequate to compensate for Defendants' infringement of the Pergo patents, in an amount to be determined at trial, but in no event less than a reasonable royalty;
- (v) An order, pursuant to 35 U.S.C. § 284, trebling all damages awarded to Pergo in view of Defendants' willful and wanton infringement of the Pergo patents;
- (vi) An order, pursuant to 35 U.S.C. § 284, awarding to Pergo interest on the damages and its costs incurred in this action;

(vii) A declaration that this case is exceptional pursuant to 35 U.S.C. § 285 and an award to Pergo of its reasonable attorneys' fees, expenses, and costs incurred in this action; and

(viii) Any other and further relief as this Court may deem just and proper.

This the 4th day of March, 2008.

KILPATRICK STOCKTON LLP

/s/ Hayden J. Silver, III

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