

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

THE CONTAINER STORE, INC.,

Plaintiff,

vs.

SCHULTE CORPORATION, and
ORGANIZED LIVING, LTD.,

Defendants.

CIVIL ACTION No. _____

JURY TRIAL

PLAINTIFF'S ORIGINAL COMPLAINT

The Container Store, Inc. ("Plaintiff") files this Original Complaint for patent infringement. The Container Store asserts a claim for infringement of U.S. Patent No. 7,178,769, a copy of which is attached hereto as Exhibit "A", against Defendants Schulte Corporation and Organized Living, Ltd.

PARTIES

1. The Container Store, Inc., is a Texas Corporation with its headquarters at 500 Freeport Pkwy Ste 100, Coppel, Texas.

2. Defendant Schulte Corporation ("Schulte") is an Ohio corporation with its principle office located at 12115 Ellington Ct., Cincinnati, Ohio. Upon information and belief, Schulte does not have a registered agent for service of process in the State of Texas.

3. Defendant Organized Living, Ltd. ("Organized Living") is an Ohio corporation with its principle office located at 3100 E Kemper Rd., Cincinnati, Ohio.

Upon information and belief, Organized Living does not have a registered agent for service of process in the State of Texas.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. This Court has subject matter jurisdiction over this case of patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. This court has personal jurisdiction over defendant, Schulte. Schulte conducts business within the State of Texas. Schulte, directly or through intermediaries, ships, distributes, offers to sell, or sells infringing products within the United States, the State of Texas, and the Eastern District of Texas.

6. This court has personal jurisdiction over defendant, Organized Living. Organized Living conducts business within the State of Texas. Organized Living, directly or through intermediaries, ships, distributes, offers to sell, or sells infringing products within the United States, the State of Texas, and the Eastern District of Texas.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

PATENT INFRINGEMENT

8. United States Patent No. 7,178,769 (the "'769 patent"), listing Reine Magnusson and Peter Nilsson as inventors, and entitled "Suspension Device", was duly and legally issued by the United States Patent and Trademark Office on February 20, 2007, after full and fair examination. A true and correct copy of the '769 patent is attached hereto as Exhibit A. The '769 patent relates generally to organizational products and particularly to products for suspending baskets, shelves, and the like, from door-like structures.

9. By right of assignment, The Container Store is the owner of all rights, title, and interest in and to the '769 patent.

10. Defendant Schulte has made, used, offered for sale, or sold in the United States, or imported into the United States, products covered by the '769 patent, including, at least, the FreedomRail Over the Door Hardware product. Schulte will continue these activities unless enjoined.

11. Defendant Organized Living has made, used, offered for sale, or sold in the United States, or imported into the United States, products covered by the '769 patent, including, at least, the FreedomRail Over the Door Hardware product. Organized Living will continue these activities unless enjoined.

12. The Container Store has complied with the requirements of 35 U.S.C. § 287 by either marking its products or by providing notice to the Defendants.

COUNT 1

13. The Container Store repeats and realleges the allegations in paragraphs 8 - 12.

14. Defendant Schulte has directly infringed, contributorily infringed, and/or induced infringement of the '769 patent (a) by making, using, offering for sale, or selling within the United States, or importing into the United States, products that incorporate the invention of the '769 patent; or (b) intending that others make, use, offer for sale, or sell within the United States, or import into the United States, products that incorporate the invention of the '769 patent.

15. On information and belief, Schulte's infringement of the '769 patent has been willful. Schulte's infringement of the '769 patent has damaged The Container Store.

COUNT 2

16. The Container Store repeats and realleges the allegations in paragraphs 8 - 12.

17. Defendant Organized Living has directly infringed, contributorily infringed, and/or induced infringement of the '769 patent (a) by making, using, offering for sale, or selling within the United States, or importing into the United States, products that incorporate the invention of the '769 patent; or (b) intending that others make, use, offer for sale, or sell within the United States, or import into the United States, products that incorporate the invention of the '769 patent.

18. On information and belief, Organized Living's infringement of the '769 patent has been willful. Organized Living's infringement of the '769 patent has damaged The Container Store.

JURY DEMAND

19. The Container Store requests a jury to hear this matter.

PRAYER FOR RELIEF

FOR THESE REASONS, The Container Store respectfully requests that this Court grant the following relief:

- A. Adjudge that the defendant, Schulte, is infringing the '769 patent;
- B. Adjudge that Schulte's infringement of the '769 patent was willful, and that Schulte's continued infringement of this patent is willful;
- C. Adjudge that the defendant, Organized Living, is infringing the '769 patent;

- D. Adjudge that Organized Living's infringement of the '769 patent was willful, and that Organized Living's continued infringement of this patent is willful;
- E. Enter a preliminary and final injunction against the continuing infringement by Schulte;
- F. Enter a preliminary and final injunction against the continuing infringement by Organized Living;
- G. Award The Container Store damages in an amount adequate to compensate The Container Store for Defendants' infringement, but in no event less than a reasonable royalty;
- H. Enter an order trebling any and all damages awarded to The Container Store by reason of Defendants' willful infringement of the '769 patent;
- I. Enter an order awarding interest and costs to the The Container Store;
- J. Enter an order finding that this is an exceptional case and award The Container Store its reasonable attorneys' fees; and,
- K. Award such other relief as the Court may deem appropriate and just under the circumstances.

Dated: October 31, 2008

Respectfully submitted,

/s/J. Michael Heinlen

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