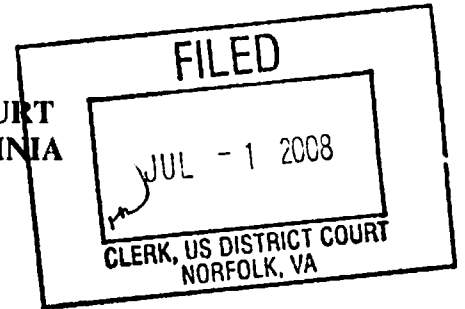


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
*ALEXANDRIA* DIVISION



HEINZ KETTLER GMBH & CO., KG and )  
KETTLER INTERNATIONAL, INC. )

Plaintiffs, )

v. )

RAND INTERNATIONAL, LLC. )

SERVE: Mark Worksman )  
Registered Agent )  
51 Executive Boulevard )  
Farmingdale, NY 11735 )

and )

THE LITTLE TIKES COMPANY, INC. )

SERVE: CT Corporation System )  
Registered Agent )  
1300 East Ninth Street )  
Cleveland, OH 44114 )

Civil Action No.: 1:08cv679TSE-TRJ

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs HEINZ KETTLER GMBH & CO., KG (hereinafter referred to as "Heinz KETTLER") and KETTLER INTERNATIONAL, INC. (hereinafter referred to as "KETTLER Int.") (hereinafter collectively referred to as "KETTLER" or "Plaintiffs") submit this Complaint against Defendants RAND INTERNATIONAL, LLC. (hereinafter referred to as "Rand"), and THE LITTLE TIKES COMPANY, INC. (hereinafter referred to as "Little Tikes"), (collectively referred to as "Defendants").

### **THE PARTIES**

1. Heinz KETTLER is a corporation, organized and existing under the laws of the Federal Republic of Germany, having its principal place of business at Hauptstrasse 28, D-59469 Ense-Parsit, Germany.

2. KETTLER Int. is a corporation established under the laws of the Commonwealth of Virginia, with its principal place of business at 1355 London Bridge Road, Virginia Beach, Virginia 23453. KETTLER Int. is owned by KETTLER International Beteiligungsgesellschaft GmbH of Hauptstrasse 28, D-59469 Ense-Parsit, Germany, which is owned by KETTLER Management GmbH of Hauptstrasse 28, D-59469 Ense-Parsit, Germany. Both Heinz KETTLER and KETTLER Management GmbH are owned by Dr. Karin KETTLER.

3. Rand is, upon information and belief, a corporation, organized and existing under the laws of New York, with a place of business at 51 Executive Boulevard, Farmingdale, NY 90638. Upon information and belief, Rand is importing the infringing products into the United States from Israel.

4. Little Tikes is, upon information and belief, a corporation, organized and existing under the laws of Ohio, with a place of business at 2180 Barlow Road, Hudson, OH 44236. Upon information and belief, Rand is licensing from Little Tikes the Little Tikes trademark to affix to the infringing products.

### **JURISDICTION AND VENUE**

5. Subject matter jurisdiction of this Court is proper under 28 U.S.C. §§ 1331, 1332 and 1338.

6. This Court can properly exercise personal jurisdiction over the defendants because the defendants and their agents have sold and continue to sell infringing devices in the

Eastern District of the Commonwealth of Virginia, including the Norfolk Division.

7. Venue for the present action properly lies against the defendants in this District and Division pursuant to 28 U.S.C. §§ 1391(c).

### **BACKGROUND**

8. This action is based upon the defendants' unauthorized appropriation and use of KETTLER's patented technology.

9. Heinz KETTLER manufactures, among other things, numerous children's "ride-on" vehicles including various models of tricycles, bicycles, scooters, etc.

10. Heinz KETTLER's children's "ride-on" vehicles, which have won numerous awards, are sold in many countries all over the world, including the United States. KETTLER Int. is Heinz KETTLER's exclusive United States distributor of patents.

11. Heinz KETTLER has obtained patents covering various features of its trikes in countries throughout the world, including U.S. patent No. 6,378,884 (the "'884 patent"), which issued in the United States on April 30, 2002.

12. U.S. Patent No. 7,156,408 (the "'408 patent"), issued on January 2, 2007 from a U.S. continuation application of parent U.S. Patent No. 6,799,772 (the "'772 patent"), which, in turn, issued on October 5, 2004 from a U.S. continuation application of parent U.S. patent No. 6,378,884. The '884 patent, the '772 patent, and the '408 patent are directed to a vehicle steering head and were duly and legally issued to Heinz KETTLER. Heinz KETTLER is the sole owner of the '884 patent, the '772 patent, and the '408 patent. The '772 patent and the '408 patent are collectively referred to as "the patents-in-suit."

13. The patents-in-suit contain claims covering, among other things, a limited turning system and a steering lock system which can prevent a child user from over-steering the

vehicle and which allows an adult to lock the front wheel of a vehicle in a straight position.

14. Upon information and belief, the defendants copied the limited turning system used on one or more of KETTLER's trike models, and used such copied system in a number of the defendant's trike models, including, but not limited to the following: Ofrat Model No. 129H, also known as the Steer and Grow Trike.

15. Upon information and belief, all of the defendants' Trike models referenced above are manufactured abroad, imported into the United States by Rand, and Rand holds a license from Little Tikes to affix the Little Tikes trademark onto the infringing products.

16. The defendants have imported, distributed, sold and/or offered for sale, and continue to import, distribute, sell and/or offer for sale, trike models, through certain retailers and over the Internet, which include a limited turning system that infringes the patents-in-suit.

#### **THE KETTLER PATENTS-IN-SUIT**

17. The '772 patent and the '408 patent, entitled "Vehicle Steering Head," were duly and legally issued on October 5, 2004 and January 2, 2007, respectively. True and correct copies of these patents are attached hereto as Exhibits 1 and 2.

18. The '772 patent and the '408 patent are solely and properly owned by KETTLER.

#### **COUNT I- PATENT INFRINGEMENT**

19. KETTLER incorporates by reference the allegations of paragraphs 1 through 18 above as if fully set forth herein.

20. The defendants have made, used, offered to sell, and/or sold in the United States, and/or imported into the United States, trikes or tricycles covered by one or more claims of the patents-in-suit, without KETTLER's authorization.

21. The defendants continue to make, use, offer to sell, and/or sell in the United States, and/or import into the United States, trikes or tricycles covered by one or more claims of the patents-in-suit, without KETTLER's authorization.

22. One or more claims of the patents-in-suit is infringed by one or more trikes or tricycles made, used, offered for sale, sold and/or imported by the defendants, including Ofrat Model No. 129H, also known as the Steer and Grow Trike. The defendants do not have a license to make, use, sell, offer for sale or import products which incorporate the technology which infringes the patents-in-suit.

23. The defendant's infringement of the patents-in-suit has been, and continues to be, willful and has caused and will continue to cause damage to KETTLER.

**PRAYER FOR RELIEF.**

WHEREFORE, Plaintiffs pray for the following relief and seek a judgment against Defendants:

1. Declaring that the defendants have infringed the '772 patent and the '408 patent;
2. Declaring that the defendants, their agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with the defendants be preliminarily and permanently enjoined and restrained from further infringing the patents-in-suit;
3. Awarding KETTLER damages for the defendants' infringement of the patents-in-suit;
4. Declaring that the defendants' infringement of the patents-in-suit is and has been willful;

5. Awarding KETTLER increased damages in the amount of three times the damages found or assessed in accordance with 35 U.S.C. § 283;

6. Declaring the case exceptional and awarding KETTLER their costs and attorney fees in accordance with 35 U.S.C. § 285;

7. Requiring the defendants to provide a full accounting of all trikes which infringe the patents-in-suit, including trike model No. 129H, and which have been and/or will be sold, imported, offered for sale in the U.S. on or after October 5, 2004; and

8. Ordering the defendants to recall all infringing products in the U.S. and its territories which have not been sold and/or shipped to consumers from all retailers, re-sellers and shippers, and others in possession of such products;

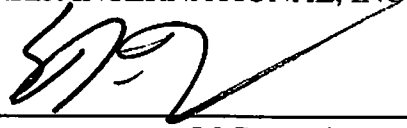
9. Awarding KETTLER such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rules of Civil Procedure 38(b), KETTLER hereby demands trial by jury as to all claims in this litigation.

Respectfully submitted,

HEINZ KETTLER GMBH & CO., KG and  
KETTLER INTERNATIONAL, INC.

By:  \_\_\_\_\_  
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