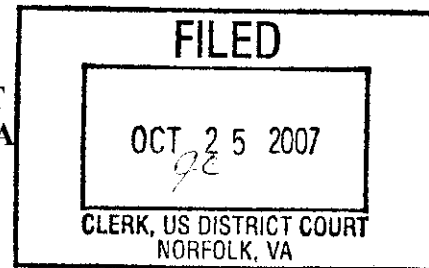


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION



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

Plaintiffs,)

v.)

FRIENDLY TOYS, CORP.)

SERVE: Jae Hyun Hong)
Registered Agent)
16851 Knott Avenue)
La Mirada, CA 90638)

Defendant.)

Civil Action No.: 1:07cv1081

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 Defendant FRIENDLY TOYS, CORP. (hereinafter referred to as "Friendly" or "Defendant").

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 23456. 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. Friendly is, upon information and belief, a corporation, organized and existing under the laws of California, with a place of business at 16851 Knott Avenue, La Mirada, California 90638.

JURISDICTION AND VENUE

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

5. This Court can properly exercise personal jurisdiction over Friendly because Friendly and its agents have sold and continue to sell infringing devices in the Eastern District of the Commonwealth of Virginia, including the Norfolk Division.

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

BACKGROUND

7. This action is based upon Friendly's unauthorized appropriation and use of KETTLER's patented technology.

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

9. 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.

10. 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.

11. 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.”

12. The patents-in-suit contain claims covering, among other things, a limited turning system and a steering lock system which can, among other things, 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.

13. Upon information and belief, Friendly copied the limited turning system used one or more of KETTLER’s trike models, and used such copied system in a number of Friendly’s trike models, including, but not limited to the following: Friendly Trike model # 77102; Friendly Trike model # 77103; Friendly Trike model # 77107; Friendly Trike model # 77108; Friendly Trike model # 77112; Friendly Trike model # 77113; Friendly Trike model # 77118; Friendly Trike model # 77119; and the Friendly Trike known as the “Harley Davidson Aero Tricycle.

14. Upon information and belief, all of the Friendly Trike models referenced above are manufactured abroad and imported into the United States by Friendly.

15. Friendly has imported, distributed, sold and offered for sale, and continues to import, distribute, sell and 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

16. 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.

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

COUNT I- PATENT INFRINGEMENT

18. KETTLER incorporates by reference the allegations of paragraphs 1 through 17 above as if fully set forth herein.

19. Friendly has 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.

20. Friendly continues 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.

21. 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 Friendly, including Friendly Trike Models 77102, 77103, 77107, 77108, 77112, 77113, 77118, 77119, and the Friendly Harley Davidson Trike.

22. Friendly does 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. Friendly's infringement of the patents-in-suit has been, and continues to be, willful.

PRAYER FOR RELIEF.

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

1. Declaring that Friendly has infringed the '772 patent and the '408 patent;
2. Declaring that Friendly, its agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with Friendly be preliminarily and permanently enjoined and restrained from further infringing the patents-in-suit;
3. Awarding KETTLER damages for Friendly's infringement of the patents-in-suit;
4. Declaring that Friendly's 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 Friendly to provide a full accounting of all trikes which infringe the patents-in-suit, including trike model Nos. 77102, 77103, 77107, 77108, 77112, 77113, 77118, and 77119, and the Friendly Harley Davidson Trike, 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 Friendly 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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