

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

TEK NEK TOYS INTERNATIONAL, INC.
2834 Market Loop, Suite 106
Southlake, Texas 76092

Plaintiff,

Vs.

KIDDIELAND INDUSTRIAL LIMITED,
D/B/A KIDDIELAND TOYS LTD.
5th Floor, Lippo Sun Plaza
28 Canton Road
TST, Hong Kong, SAR, China

Defendant.

Case No. 1:10-cv-286

Judge Dlott

AMENDED COMPLAINT AND JURY DEMAND

Plaintiff, Tek Nek Toys International, Inc., by its attorneys, for its Complaint, alleges as follows:

The Parties

1. Plaintiff Tek Nek Toys International, Inc. ("Tek Nek") is a Delaware corporation having a principal place of business at 2834 Market Loop, Suite 106, Southlake, Texas 76092.
2. On information and belief, defendant Kiddieland Industrial Limited, doing business as Kiddieland Toys Ltd. ("Kiddieland"), is a Hong Kong business entity having its principal place of business at 5th Floor, Lippo Sun Plaza, 28 Canton Road, TST, Hong Kong, SAR, China, and does substantial and continuous business in the State of Ohio, including through sales of the products accused to infringe the patent as set out below.

Jurisdiction

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. Federal question jurisdiction is conferred pursuant to 28 U.S.C. §§ 1331 and 1338(a).

Count I
Infringement of United States Patent No. 6,780,076 by Kiddieland

4. The allegations of paragraphs 1-4 are incorporated by reference as though fully set forth herein.

5. United States Patent No. 6,780,076, entitled "Talking Stick Horse" (hereinafter "the '076 patent") was duly and legally issued on August 24, 2004.

6. During all relevant times, Tek Nek has marked the products it has manufactured and sold under the '076 patent in accordance with 35 U.S.C. § 287.

7. Kiddieland manufactures and imports/sells into the United States a ride-on toy known as "Rock 'n' Roll 2-in-1 Rocker and Ride-On" and designated Item No. 033258 (the "infringing product").

8. The infringing product is an interactive ride-on toy with a toy animal's head having a moveable mouth, at least one button, a speaker, and a mechanism for moving the mouth located within the head. It also includes an electronically programmed chip for operating both the speaker and the mechanism in response to activation of the button. The mouth includes upper and lower portions, an upper member including a nose and a lower member including a chin. The mechanism operates to move at least one of the nose and chin, and the button is located on the head.

9. Kiddieland has infringed, and currently is infringing, one or more claims of the '076 patent through the offer for sale, sale and importation into the United States of the infringing product.

10. On information and belief, the acts of infringement complained of herein are being carried out willfully and with full knowledge by Kiddieland of the '076 patent.

11. As a result of the actions of Kiddieland, Tek Nek has suffered, and continues to suffer, substantial injury, including irreparable injury, and Tek Nek has been damaged and will continue to be damaged, including through the loss of sales and profits that Tek Nek would have made but for the infringement by Kiddieland, unless Kiddieland is enjoined by this Court.

WHEREFORE, Tek Nek prays:

A. That this Court enter a decree holding that Kiddieland has infringed United States Patent No. 6,780,076.

B. That Kiddieland, and its agents, employees, successors and assigns, and any and all persons or entities acting at, through, under or in active concert or participation with or under authority of or from them, be enjoined and restrained, preliminarily during the course of this proceeding and thereafter permanently, from making, using, offering for sale, selling and/or importing into the United States any product that infringes United States Patent No. 6,780,076.

C. That Kiddieland be directed to destroy all products in its inventory that have been found to infringe United States Patent No. 6,780,076.

D. That Kiddieland be directed to recall all products that have been sold that infringe United States Patent No. 6,780,076.

E. That Kiddieland be directed to notify all entities to whom they have sold any product that has been found to infringe United States Patent No. 6,780,076 of the judgment entered in this action and that the product sold to such entity is an infringement of United States Patent No. 6,780,076.

F. That a judgment be entered that Kiddieland be required to pay over to Tek Nek all damages sustained by Tek Nek due to the acts of infringement complained of herein, and that such damages be trebled pursuant to 35 U.S.C. § 284 for the willful acts of infringement complained of herein

G. That this is an exceptional and willful case and that Tek Nek be awarded the cost of this action and reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

H. That Kiddieland be ordered to file with this court and serve on Tek Nek within thirty (30) days after entry of final judgment of this cause a report in writing under oath setting forth in detail the manner and form in which Kiddieland have complied with the final judgment.

I. For such other and further relief as the nature of the case may require and as may be deemed just and equitable.

Jury Demand

Plaintiff Tek Nek Toys International, Inc. hereby demands and request trial by jury of all issues that are triable by jury.

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Respectfully submitted,

Dated: December 9, 2010

s/ Glenn D. Bellamy _____
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