

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

<b>KETTLER INTERNATIONAL, INC.</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No.: 1:10-cv-708</b>
	)	
<b>RAZOR USA, LLC</b>	)	<b>JURY TRIAL DEMANDED</b>
	)	
<b>Defendant.</b>	)	
	)	
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**AMENDED COMPLAINT**

Plaintiff KETTLER INTERNATIONAL, INC. (hereinafter referred to as “KETTLER” or “Plaintiff”) submits this Amended Complaint against Defendant Razor USA, LLC (hereinafter referred to as “Razor” or “Defendant”) pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure.

**THE PARTIES**

1. KETTLER 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.

2. Razor is a manufacturer of children’s scooters and ride-on toys and, upon information and belief, is a limited liability company organized and existing under the laws of Delaware, with its principal place of business in Cerritos, California. Upon information and belief, Razor also has other manufacturing, sourcing and distribution facilities in Europe and Australia, and is a privately held company.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction over the subject matter of this controversy pursuant to 28 U.S.C. §§ 1331, 1332 and 1338.

4. This Court can properly exercise personal jurisdiction over the Defendant because the Defendant and its agents have sold, continue to sell, and/or import infringing devices in the Eastern District of the Commonwealth of Virginia, including within the Norfolk and Alexandria Divisions.

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

### **BACKGROUND**

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

7. HEINZ KETTLER GMBH & CO., KG, formerly known as HEINZ KETTLER GMBH & CO., previously 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.

8. U.S. Patent No. 7,487,988 (the "'988 Patent") issued on February 10, 2009 from a continuation of application of 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 '988 patent, '884 patent, the '772 patent, and the '408 patent are directed to a vehicle steering head, limited turn system, and/or steering lock system and were duly and legally issued to Heinz KETTLER. The '988 patent, '884 patent, '772 patent and the '408 patent are collectively referred to as "the patents-in-suit."

9. By virtue of assignment, KETTLER is presently the sole owner of the '988 patent, '884 patent, the '772 patent, and the '408 patent. KETTLER, by virtue of assignment, is presently the sole and exclusive holder of the patents-in-suit, and has exclusive rights to import, distribution, marketing, offer for sale and sell in the United States of any commercial embodiment of the patents-in-suit. Also by virtue of assignment, KETTLER is vested with the exclusive right to enforce, defend and prosecute the patents-in-suit in the United States.

10. The patents-in-suit contain claims covering, among other things, a vehicle steering head, limited turn system, and/or 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. KETTLER's children's "ride-on" vehicles, which incorporate the patents-in-suit, are sold throughout the United States.

11. Upon information and belief, Razor copied the vehicle steering head, limited turn system, and/or steering lock system used on one or more of KETTLER's trike models, and used such copied system in a number of Defendant's trike models, including but not limited to the Razor RipRider 360, Item Number 20036540.

12. Upon information and belief, Razor sells and imports the infringing tricycles in the United States, including to some of KETTLER's long time customers.

13. Defendant has imported, distributed, sold and offered for sale, and continues to import, distribute, sell, and offer for sale, tricycle models, through certain retailers and over the Internet, which include a limited turning system and locking device that infringes the patents-in-suit.

14. True and correct copies of these the '988 patent, '884 patent, '772 patent and the '408 patent are attached hereto as Exhibits 1, 2, 3, and 4, respectively.

15. KETTLER has been damaged by Defendant's unauthorized use, adoption, appropriation, and/or copying of KETTLER's patented technology.

16. On information and belief, Defendant knows and/or has known of the patents-in-suit and the subject matter of the patents-in-suit.

17. On information and belief, Razor knew or should have known that the above mentioned RipRider 360 model infringes the patents-in-suit and has willfully infringed the valid intellectual property of KETTLER and is thus liable for damages or lost profits in an amount to be proved at trial and for that amount to be trebled.

**COUNT I**  
**(Patent Infringement)**

18. KETTLER incorporates herein and realleges, as if fully set forth in this paragraph, the allegations in the foregoing paragraphs above, inclusive.

19. Razor 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. Razor 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 Defendant, including but not limited to the Razor RipRider 360 (Item Number 20036540).

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

**PRAYER FOR RELIEF.**

WHEREFORE, Plaintiff prays for the following relief and seek a judgment against Defendant:

1. Declaring that Defendant has infringed the '988 patent, '884 patent, '772 patent and the '408 patent;

2. Declaring that Defendant, its agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with Defendant be preliminarily and permanently enjoined and restrained from further infringing the patents-in-suit pursuant to 35 U.S.C. § 283;

3. Awarding KETTLER damages for Defendant's infringement of the patents-in-suit;

4. Awarding judgment in favor of KETTLER on all counts of the Complaint;

5. Declaring that Defendant's infringement of the patents-in-suit is and has been willful;

6. Awarding KETTLER increased damages in the amount of three times the damages found or assessed in accordance with 35 U.S.C. § 284;

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

8. Requiring Defendant to provide a full accounting of all tricycles, trikes, and ride-on vehicles which infringe the patents-in-suit, including but not limited to the Razor RipRider 360 (Item Number 20036540).

9. Ordering Defendant to recall all infringing products and 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; and

10. 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.

KETTLER INTERNATIONAL, INC.

By: /s/ John C. Lynch  
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**Civil Action No.: 1:10-cv-708**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 9th day of September, 2010, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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