

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

SCHUKRA-GERATEBAU AG, a foreign )  
corporation, and SCHUKRA NORTH )  
AMERICA, Ltd., a Canadian company, )

Plaintiffs, )

v. )

CAPRO, LTD. f/k/a )  
CAPRO, INC., a Texas Limited Partnership; )  
and TELEFLEX, INC., a Delaware )  
Corporation, )

Defendants. )

Case No. 4:05 CV-00012 ERW

**JURY TRIAL REQUESTED**

**AMENDED COMPLAINT**

COMES NOW Plaintiffs Schukra-Geratebau AG (“Schukra-Geratebau”) and Schukra North America, Ltd. (“Schukra North America”)(collectively referred to herein as “Plaintiffs”), by and through their undersigned counsel, and for their amended complaint against Defendants Capro, Ltd. f/k/a Capro, Inc. (“Capro”) and Teleflex, Inc. (“Teleflex”) (collectively referred to herein as “Defendants”), state as follows:

**PARTIES**

1. Plaintiff Schukra-Geratebau AG is an Austrian corporation with its principal place of business in Berndorf, Austria. Schukra-Geratebau sells, among other things, component parts for the automobile industry, including lumbar support mechanisms for seating.

2. Plaintiff Schukra North America, Ltd. is a Canadian company with its principal place of business in Windsor, Ontario. Schukra North America sells, among other things, component parts for the automobile industry, including lumbar support mechanisms for seating.

3. Upon information and belief, Defendant Capro is a Texas limited partnership with its principal place of business located at 300 S. Cochran, Willis, Texas 77378. Upon information and belief, Defendant Capro is a global supplier for the automotive and industrial markets and sells, among other things, controls for lumbar support systems utilized in the automotive seating industry. In addition, upon information and belief, Capro does business as Henderson's Comfort Systems.

4. Upon information and belief, Defendant Teleflex is a Delaware corporation with its principal place of business located at 155 South Limerick Road, Limerick, Pennsylvania 19468. Upon information and belief, Defendant Teleflex is a global supplier of specialty engineered products to the automotive, marine, industrial, medical, and aerospace industries.

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1338(a), this being an action arising under the patent laws of the United States, Title 35, United States Code, in particular 35 U.S.C. § 101, *et seq.*

6. Venue in this judicial district is proper based upon 28 U.S.C. §§ 1391(b)-(c), and 1400(b).

#### **Allegations, To All Counts**

7. On June 17, 1997, United States Patent No. 5,638,722 (the "'722 Patent"), entitled ADJUSTMENT DEVICE IN A SEAT FOR A PELVIS AND/OR LORDOSIS SUPPORT IN A BACK SUPPORT CONNECTABLE TO THE SEAT, WITH A BOWDEN-CABLE ARRANGEMENT CONNECTED THERETO was duly and legally issued to Knud Klingler with AMEU Management Corp. noted as the sole assignee. A true and correct copy of the '722 Patent is attached hereto as Exhibit A and incorporated herein by reference.

8. On or about January 22, 1998, AMEU Management Corp. assigned all of its rights, title and interest in and to the '722 Patent to Knud Klingler.

9. On April 18, 2000, Knud Klingler assigned all of his rights, title and interest in and to the '722 Patent to Schukra-Geratebau GmbH, which was duly recorded with the United States Patent and Trademark Office on August 8, 2000.

10. On April 29, 2000, Schukra-Geratebau GmbH changed its name to Schukra-Geratebau AG. This change of name was duly recorded with the United States Patent and Trademark Office on December 22, 2004.

11. Schukra-Geratebau has licensed to Schukra North America the rights to manufacture, sell and offer of sale the inventions claimed and disclosed in the '722 Patent for the United States.

### **COUNT I**

#### **(Patent Infringement)**

12. Plaintiffs incorporate the allegations of Paragraphs 1 through 9 as if fully set forth herein.

13. Upon information and belief, Defendants have in the past and are still infringing one or more of the claims of the '722 Patent by manufacturing, selling and/or offering for sale, within the United States, lumbar support systems that embody the inventions claimed in the '722 Patent, or by contributing to or inducing infringement of those claims, in violation of 35 U.S.C. § 271.

14. Plaintiffs design, produce and/or sell actuator devices that embody the claimed inventions of the '722 Patent.

15. Plaintiffs have provided Defendants with notice of the '722 Patent and of Defendants' infringement of the same. Despite this notice, Defendants continue to infringe the '722 Patent.

16. Defendants have no license from Plaintiffs but have nonetheless deliberately, knowingly and willfully infringed the '722 Patent, thereby causing irreparable harm and damage to Plaintiffs, which damage should be trebled pursuant to 35 U.S.C. § 284.

17. The acts of Defendants constitute willful infringement making this cause an exceptional case within the provisions of 35 U.S.C. § 285, thereby entitling Plaintiffs to recover their attorneys' fees upon prevailing in this action.

18. By reason of Defendants' infringement of the '722 Patent, Plaintiffs have been and will continue to be seriously damaged and irreparably harmed unless Defendants are enjoined from further infringing the '722 Patent and Plaintiffs is adequately compensated for such infringement by this Court pursuant to the provisions of 35 U.S.C. §§ 283 and 284.

WHEREFORE, Plaintiffs Schukra-Geratebau AG and Schukra North America, Ltd. pray that:

(a) Defendants and their principals, officers, employees, servants, agents, representatives, distributors, attorneys and persons, firms or corporations under their control or in active concert or participation with Defendants be preliminarily and permanently enjoined by and restrained from infringing the '722 Patent, or inducing or contributing to the infringement of the '722 Patent;

(b) That this Court order Defendants to deliver to Plaintiffs any and all of their products that that infringe any of the claims of the '722 Patent, pursuant to 35 U.S.C. § 283, and for an Order impounding all lumbar support systems that infringe the claims of the '722 Patent in Defendants' possession or under their control;

(c) For a judgment that Defendants have infringed and are presently infringing one or more of the claims of the '722 Patent by the manufacture, use and/or sale of the infringing products;

(d) For an accounting of all damages resulting from such infringement including an accounting of all profits derived from use of the accused infringing devices, and for an award of up to three (3) times the amount of damages found and accessed pursuant to 35 U.S.C. § 284;

(e) For an award to Plaintiffs of all costs, interest and reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285; and

(f) For such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a jury trial on all issues so triable in this case.

Respectfully submitted,

BLACKWELL SANDERS PEPER MARTIN LLP

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Schukra North America, Ltd.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on March 3, 2005, the foregoing document was filed electronically with the Clerk of the court, to be served by operation of the Court's electronic filing system and by First Class U.S. Mail upon the following:

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*/s/ Anthony Martin*  
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