

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED

MAR 29 2004

U.S. DISTRICT COURT
INDIANAPOLIS, INDIANA

| | | |
|-----------------------------|---|------------------------------------|
| DOREL JUVENILE GROUP, INC., |) | |
| |) | |
| Plaintiff, |) | Civil Action 1:03-CV-11549-DFH-WTL |
| |) | |
| vs. |) | |
| |) | |
| EVENFLO COMPANY, INC. |) | |
| |) | |
| Defendant. |) | |

AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Dorel Juvenile Group, Inc. ("DJG "), for its Amended Complaint against Defendant, Evenflo Company Inc. ("Evenflo") alleges and states:

PARTIES, JURISDICTION AND VENUE

1. DJG is a Massachusetts corporation with its principal place of business, for sale of juvenile seats, in Columbus, Indiana.
2. Evenflo is an Ohio corporation with its principal place of business in Piqua, Ohio.
3. This is a complaint for patent infringement pursuant to 35 U.S.C. § 271 *et. seq.* This Court has subject matter jurisdiction over DJG's claims pursuant to 28 U.S.C. §§ 1331 and 1338.
4. Evenflo is doing business within this judicial district, subjecting it to jurisdiction within the judicial district and making venue proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400.

THE PATENTS IN SUIT

5. On October 22, 2002, United States Patent No. 6,467,839 ("the '839 patent") entitled "Juvenile Seat Article Holder" was duly and legally issued to James M. Kain and

assigned at issuance to Cosco Management, Inc. ("CMI"). A true and correct copy is attached as Exhibit A. CMI licenses the '839 patent exclusively to DJG.

6. On January 8, 2002, United States Patent No. 6,336,682 ("the '682 patent") entitled "Child Vehicle Seat With Shoulder Strap Guide" was duly and legally issued to Scot M. Roško and assigned after issuance to CMI. A true and correct copy is attached as Exhibit B. CMI licenses the '682 patent exclusively to DJG.

7. On October 16, 2001, United States Patent No. 6,302,033 ("the '033 patent") entitled "Juvenile Tray" was duly and legally issued to Richard H. Roudebush and assigned at issuance to CMI. A true and correct copy is attached as Exhibit C. CMI licenses the '033 patent exclusively to DJG.

8. On September 2, 2003, United States Patent No. 6,612,649 ("the '649 patent") entitled "Juvenile Vehicle Seat Cup Holder" was duly and legally issued to James M. Kain and assigned at issuance to CMI. A true and correct copy is attached as Exhibit D. CMI licenses the '649 patent exclusively to DJG.

DEFENDANT'S INFRINGEMENT

9. Evenflo has been and still is infringing the '839, '682, '033, and '649 patents by making, selling, and using juvenile vehicle seats embodying the patented inventions or inducing the infringement by others of the '839, '682, '033, and '649 patents, and will continue to do so unless enjoined by this Court.

THE HARM TO PLAINTIFFS

10. Evenflo has caused or will cause, by Evenflo's infringing conduct and its inducement of infringement by others, irreparable harm to DJG for which there is no adequate remedy at law.

11. Upon information and belief, Evenflo has engaged in its conduct willfully and in complete disregard of, or with indifference to, DJG's rights and interests.

12. DJG has suffered or will suffer damage as a result of Evenflo's infringement to date.

13. This is an exceptional case as that term is defined in 35 U.S.C. § 285.

WHEREFORE, DJG prays that this Court:

1. Permanently enjoin Evenflo and its officers, agents, servants, employees, and attorneys, and those in active concert or participation with them who receive actual notice of the Order, from importing, manufacturing, using, selling and/or offering for sale devices which infringe the '839, '682, '033, and '649 patents.

2. Issue an Order directing Evenflo and its officers, agents, servants, employees, and attorneys, and those acting in concert and participation with them who receive actual notice of the order, to destroy all molds, machines, tooling, or other equipment used in the manufacture of items infringing the '839, '682, '033, and '649 patents.

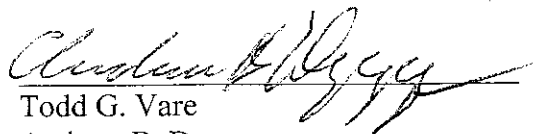
3. Award DJG monetary damages adequate to compensate them for past infringement consistent with 35 U.S.C. § 284, up to and including treble the amount of actual damages assessed, together with costs and prejudgment interest.

4. Award DJG its reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

5. Grant and award any and all relief found necessary and proper under these circumstances.

JURY DEMAND

DJG requests a trial by jury on its claims.



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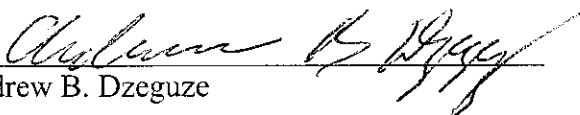
Attorneys for Plaintiff - Counterclaim
Defendant,
Dorel Juvenile Group, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served
this 30th day of January, 2004 by first-class United States mail, postage pre-paid to:

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