

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**JOISSU PRODUCTS INC,**  
A Florida corporation,

Plaintiff,

vs.

**CASE NO: 6:11-cv-1260-Orl-31GJK**

**TOY INVESTMENTS, INC, d/b/a**  
**TOYSMITH, a Washington corporation,**

Defendant.

**JURY TRIAL REQUESTED**

**INJUNCTIVE RELIEF REQUESTED**

**COMPLAINT**

Plaintiff Joissu Products, Inc., through its undersigned counsel, for its Complaint against Defendant Toy Investments, Inc. d/b/a Toysmith, states:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Joissu Products, Inc. ("Joissu") is a Florida corporation.
2. Defendant Toy Investments, Inc. d/b/a Toysmith ("Toysmith") is, upon information and belief, a Washington corporation having its principal place of business in Washington, and which sells and offers for sale products within this division of the Middle District of Florida.
3. This is a claim for declaratory judgment under 28 U.S.C. §§ 2201 and 2202 seeking a final judgment that Plaintiff has not infringed Defendants' United States Patent.

4. As set forth in more detail below, Defendants have asserted that certain products sold by Joissu infringe Defendants' patents in the United States, including sales of such products within this Division of the Middle District of Florida.

5. Defendant has subjected itself to *in personam* jurisdiction as Defendants have sent letters threatening legal action for patent infringement to Joissu in this judicial district. Additionally, upon information and belief, Toysmith is subject to general jurisdiction as it is engaged in substantial and not isolated activity in this state and judicial district and maintains continuous and systematic business contacts in Florida through its wholesalers and dealers located in the state.

6. Venue properly lies within this judicial district and division, pursuant to 28 U.S.C. §§1391(b) and (c).

**THE PATENTS-IN-SUIT AND DEFENDANTS' THREATS OF INFRINGEMENT**

7. U.S. Patent No. 6,685,582 (the "'582 patent") issued on February 3, 2004.

8. U.S. Patent No. 6,971,963 (the "'963 patent") issued on December 6, 2005.

9. U.S. Patent No. 7,364,518 (the "'518 patent") issued on April 29, 2008.

10. True and correct copies of the '582 Patent, the '963 Patent and the '518 Patent (collectively the "Patents-in-Suit") are attached hereto as Exhibit 1.

11. In a letter dated July 5, 2011 that was sent to Joissu in this judicial district, Defendant has represented to Joissu that it is the owner of the Patents-in-Suit and accused Joissu of "infringement of Toysmith's patent rights." A true and correct copy of the letter (without referenced attachments) is attached hereto as Exhibit 2.

12. Plaintiff responded to Defendant's first threats in a letter dated July 8, 2011.

13. In a letter dated July 21, 2011, Defendant contended that the Patents-in-Suit are valid and infringed by Joissu. In the July 21, 2011 letter, Defendant provided a claim chart purportedly demonstrating infringement for each of the Patents-in-Suit. A true and correct copy of the letter is attached hereto as Exhibit 3.

14. Defendant's letter alleging infringement of the Patents-in-Suit has presented a substantial controversy between the parties, who have adverse legal interests, of sufficient immediacy and reality to warrant issuance of a declaratory judgment as to Plaintiff's non-infringement and the invalidity of the Patents-in-Suit.

15. Plaintiff has not infringed, directly or indirectly, any valid claim of Defendant's Patents-in-Suit, and cannot therefore be liable for any such claims.

### **COUNT ONE**

#### **Declaratory Judgment of Invalidity of the Patents-in-Suit**

16. Count One is an action under 28 U.S.C. § 2201 seeking a Declaratory Judgment that the Patents-in-Suit are invalid.

17. Plaintiff herein restates and incorporated by reference into this Count the allegations of ¶¶ 1-15, above, inclusive.

18. Upon information and belief, one or more claims of the Patents-in-Suit is invalid under 35 U.S.C. §§102, 103 and/or 112.

19. The conduct of Defendant has presented a substantial controversy between the parties, who have adverse legal interests, of sufficient immediacy and reality to

warrant issuance of a declaratory judgment as to Plaintiff's non-infringement of any valid claim of the Patents-in-Suit.

20. Wherefore, Plaintiff is entitled to a Declaratory Judgment that the Patents-in-Suit are invalid under 35 U.S.C. §§102, 103 and/or 112.

21. This case is exceptional under 35 U.S.C. § 285.

WHEREFORE, Plaintiff asks this Court to enter judgment against Defendants:

- a) Finding the Patents-in-Suit invalid;
- b) Prohibiting Defendant from making further claims of litigation against Plaintiff for patent infringement;
- c) Finding this case is exceptional under 35 U.S.C. §285 and awarding Plaintiff its attorney fees and costs; and
- d) Such and other relief as the Court deems appropriate.

## **COUNT TWO**

### **Declaratory Judgment of Non-Infringement of the Patents-in-Suit**

22. Count Two is an action under 28 U.S.C. § 2201 seeking a Declaratory Judgment that Plaintiff has not infringed any valid claim of the Patents-in-Suit.

23. Plaintiff herein restates and incorporated by reference into this Count the allegations of ¶¶ 1-15, above, inclusive.

24. The conduct of Defendant has presented a substantial controversy between the parties, who have adverse legal interests, of sufficient immediacy and reality to

warrant issuance of a declaratory judgment as to Plaintiff's non-infringement of any valid claim of the Patents-in-Suit.

25. Wherefore, Plaintiff is entitled to a Declaratory Judgment that it does not directly or indirectly infringe any valid claim of the Patents-in-Suit, whether under a theory of literal infringement or infringement under the doctrine of equivalents.

26. This case is exceptional under 35 U.S.C. § 285.

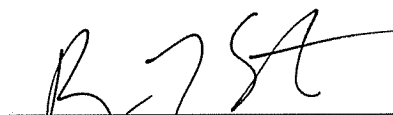
WHEREFORE, Plaintiff asks this Court to enter judgment against Defendants:

- e) Finding the Patents-in Suit are not infringed by any products or methods of Plaintiff;
- f) Prohibiting Defendant from making further claims of litigation against Plaintiff for patent infringement;
- g) Finding this case is exceptional under 35 U.S.C. §285 and awarding Plaintiff its attorney fees and costs; and
- h) Such and other relief as the Court deems appropriate.

**JURY DEMAND**

Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted July 29, 2011.



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