

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Original Creations, Inc.)	
)	
PLAINTIFF,)	COMPLAINT FOR
)	PATENT INFRINGEMENT
vs.)	
)	
Kmart Corporation of Illinois, Inc.)	
)	JURY DEMANDED
DEFENDANT.)	

COMPLAINT

Plaintiff Original Creations, Inc. (“OCI”) complains of Defendant Kmart Corporation of Illinois, Inc. (“Kmart”) and as claim for relief shows as follows:

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1338(a).

Parties

2. OCI is an Illinois Corporation having a principal place of business at 1730 Park Street, Suite 117, Naperville, Illinois 60563.

3. Defendant Kmart is an Illinois Corporation having a principal place of business at 3333 Beverly Road, Hoffman Estates, Illinois 60179.

4. This Court has personal jurisdiction over Kmart, as Kmart is present and doing business in Illinois.

The Original Creations Patent

5. United States Reissued Patent No. RE41,060 is entitled "Multi-functional Charger with Power Generating and Illumination Functions," and assigned to OCI ("the '060 Reissued Patent") (Ex. A).

6. OCI owns and has standing to sue for infringement of the '060 Reissued Patent.

7. The '060 Reissue Patent concerns chargers with power generating and illuminating functions.

The Infringement

8. Kmart sells to consumers in the United States and, more particularly, in the Northern District of Illinois, at least the following chargers with power generating and illuminating functions: the "Northwest Territory 12 LED Crank Lantern"; "Northwest Territory Wind-up Radio/Flashlight Set"; and the "Northwest Territory 4 in 1 Crank Flashlight" (collectively "the Accused Products") (Ex. B, receipts from Illinois Kmart stores).

9. Additionally, Kmart operates a website which is interactive in nature and allows internet users in Illinois to purchase at least one of the Accused Products above. (Ex. C, printouts from Kmart's interactive website <http://www.kmart.com>).

10. This Court may also have personal jurisdiction over Kmart based on Kmart's interactive website. *Aero Products Int'l, Inc. v. Intex Corp.*, 2002 WL 31109386, *8 (N.D. Ill.) (Federal district court in Illinois found to have personal jurisdiction over out of state corporation, alleged to have engaged in patent infringement

and trademark violations, as result of corporation's operation of interactive website which allowed Internet user to purchase alleged infringing products online.)

11. Accordingly, Kmart commits direct and/or contributory infringement, and/or induces infringement, of the '060 Reissued Patent pursuant to 35 U.S.C. §§ 271(a)-(c).

Venue

12. Venue is, therefore, proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(d) and 1400(b).

Willful Infringement

13. Kmart had knowledge of the '060 Reissued Patent (Ex. D, correspondence to Kmart), and thus Infringement by Kmart is intentional and willful.

Relief Requested

14. Infringement by the Defendant Kmart has injured Plaintiff OCI, and OCI is entitled to recover damages adequate to compensate it for infringement of the '060 Reissued Patent, pursuant to 35 U.S.C. §§ 284, 285. If the infringement is found to be intentional and willful, then OCI will seek treble damages pursuant to 35 U.S.C. § 284.

15. The infringement will continue to injure OCI until this Court enters an injunction prohibiting further infringement, and specifically enjoins further manufacture, sale, use and/or offer for sale of the Defendant's products recited in Paragraph 8 above, pursuant to 35 U.S.C. §§ 283.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff OCI asks this Court to enter judgment against the Defendant and its subsidiaries, agents, servants, employees, attorneys and all persons in active concert or participation with the Defendant granting OCI the following relief:

A. a judgment that Kmart has directly and/or contributorily infringed and/or induced the infringement of the '060 Reissued Patent;

B. an award to OCI of such damages pursuant to 35 U.S.C. § 284 that are adequate to compensate it for the Defendant's infringement, the damages to be no less than a reasonable royalty;

C. a permanent injunction pursuant to 35 U.S.C. § 283 prohibiting further infringement of the '060 Reissued Patent; an award of treble damages pursuant to 35 U.S.C. § 284 to the extent that the Defendant's infringement, or any thereof, is ultimately found to be willful;

D. an award to OCI of its reasonable attorney fees pursuant to 35 U.S.C. § 285 upon a determination that this is an exceptional case justifying such fees;

E. that the Court award prejudgment and post-judgment interest on all damages;

F. that OCI recover all its costs of action; and

G. for such other and further relief as this Court and/or a jury may deem proper and just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands that all issues be determined by jury.

DATED: August 11, 2011

Respectfully submitted,

s/Michael P. Mazza/

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