

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNILIN BEHEER B.V. and)
FLOORING INDUSTRIES LTD., SARL)

Plaintiffs,)

v.)

PERGO (EUROPE) AB and)
PERGO LLC)

Defendants.)

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Unilin Beheer B.V. (“Unilin Beheer”) and Flooring Industries Ltd., sarl (“Flooring Industries”) (collectively, “Plaintiffs” or “Unilin”) hereby bring this complaint for patent infringement against Defendants Pergo (Europe) AB and Pergo LLC.

THE PARTIES

1. Unilin Beheer is a Dutch corporation with its principal place of business at Hoogeveeneweg 28, 2913 LV Nieuwerkerk Ad Ijssel, Netherlands.
2. Flooring Industries is an Irish corporation with its principal place of business at 10b, rue des Merovingiens, ZI Bourmicht, L-8070 Bertrange, Luxembourg.
3. Upon information and belief, Pergo (Europe) AB (“Pergo AB”) is a Swedish corporation with its principal place of business in Trelleborg, Sweden.
4. Upon information and belief, Pergo LLC is a Delaware Limited Liability Company with its principal place of business in Raleigh, North Carolina.

THE ACCUSED PRODUCTS

5. Upon information and belief, Pergo AB and Pergo LLC (collectively, “Pergo”) are in the business of manufacturing, importing, selling and/or offering to sell

laminated floor panels (the "Accused Products") in the United States, including in the District of Delaware.

6. The Accused Products are available for purchase at Home Depot and Lowe's stores throughout the United States, including the District of Delaware, as well as over the internet and at other retail locations across the United States. The Accused Products are sold under a variety of brand names and styles, including but not limited to Everyday, Accolade, Accolade Tiles, Vintage Home, Naturals, Preferred, Select, American Cottage, Casual Living, Presto, Global Passage and World Traveler.

THE UNILIN PATENTS

7. Unilin Beheer is the sole and exclusive owner of U.S. Patent No. 6,006,486 (the "'486 patent"), duly and legally issued by the United States Patent and Trademark Office ("PTO") on December 28, 1999. The '486 patent, entitled "Floor Panel with Edge Connectors," identifies Stefan Simon Gustaaf Moriau, Mark Gaston Maurits Cappelle, and Bernard Paul Joseph Thiers as the named inventors. A true and correct copy of the '486 patent is attached hereto as Exhibit A.

8. Unilin Beheer is the sole and exclusive owner of U.S. Patent No. 6,490,836 B1 (the "'836 patent"), duly and legally issued by the PTO on December 10, 2002. The '836 patent has the same title and named inventors as set forth in Paragraph 7 above. A true and correct copy of the '836 patent is attached hereto as Exhibit B.

9. Unilin Beheer is the sole and exclusive owner of U.S. Patent No. 6,874,292 B2 (the "'292 patent"), duly and legally issued by the PTO on April 5, 2005. The '292 patent has the same title and named inventors as set forth in Paragraph 7 above. A true and correct copy of the '292 patent is attached hereto as Exhibit C.

10. Unilin Beheer is the sole and exclusive owner of U.S. Patent No. 6,928,779 B2 (the "'779 patent"), duly and legally issued by the PTO on August 16, 2005. The '779 patent has the same title and named inventors as set forth in Paragraph 7 above. A true and correct copy of the '779 patent is attached hereto as Exhibit D.

11. Unilin Beheer is the sole and exclusive owner of U.S. Patent No. 6,955,020 B2 (the "'020 patent"), duly and legally issued by the PTO on October 18, 2005. The '020 patent has the same title and named inventors as set forth in Paragraph 7 above. A true and correct copy of the '020 patent is attached hereto as Exhibit E.

12. Unilin Beheer is the sole and exclusive owner of U.S. Patent No. 6,993,877 B2 (the "'877 patent"), duly and legally issued by the PTO on February 7, 2006. The '877 patent has the same title and named inventors as set forth in Paragraph 7 above. A true and correct copy of the '877 patent is attached hereto as Exhibit F.

13. Unilin Beheer is the sole and exclusive owner of U.S. Patent No. 7,040,068 B2 (the "'068 patent"), duly and legally issued by the PTO on May 9, 2006. The '068 patent has the same title and named inventors as set forth in Paragraph 7 above. A true and correct copy of the '068 patent is attached hereto as Exhibit G.

14. Unilin Beheer is the sole and exclusive owner of U.S. Patent No. 7,328,536 B2 (the "'536 patent"), duly and legally issued by the PTO on February 12, 2008. The '536 patent has the same title and named inventors as set forth in Paragraph 7 above. A true and correct copy of the '536 patent is attached hereto as Exhibit H.

15. Flooring Industries is the sole and exclusive owner of U.S. Patent No. 6,786,019 B2 (the "'019 patent"), duly and legally issued by the PTO on September 7, 2004.

The '019 patent, entitled "Floor Covering," identifies Bernard Paul Joseph Thiers as the named inventor. A true and correct copy of the '019 patent is attached hereto as Exhibit I.

16. Pergo has been and is knowingly and willfully infringing or actively inducing infringement of the '486, '836, '292, '779, '020, '877, '068, '536, and '019 patents (the "Unilin Patents") by making, causing to be made, using, causing to be used, offering for sale, causing to be offered for sale, selling, causing to be sold, importing, or causing to be imported in the United States and the District of Delaware the Accused Products.

JURISDICTION AND VENUE

17. This claim arises under the patent laws of the United States, 35 U.S.C. § 101, *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

18. This Court has personal jurisdiction over Pergo AB because, upon information and belief, Pergo AB directly or through others sells and/or offers to sell the Accused Products in the District of Delaware, and also because Pergo AB conducts regular and substantial business in this judicial district.

19. This Court has personal jurisdiction over Pergo LLC because Pergo LLC is a Delaware Limited Liability Company. Furthermore, this Court has personal jurisdiction over Pergo LLC because, upon information and belief, Pergo LLC directly or through others sells and/or offers to sell the Accused Products in the District of Delaware, and also because Pergo LLC conducts regular and substantial business in this judicial district.

20. Upon information and belief, venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

COUNT I
(Infringement of United States Patent No. 6,006,486)

21. Unilin incorporates herein by reference Paragraphs 1 through 20 of this Complaint as if set forth in full.

22. Pergo has made, used, offered for sale, sold, and/or imported in or into the United States Accused Products that infringe one or more claims of the '486 patent either directly or under the doctrine of equivalents and has contributed to and/or induced the infringement of the '486 patent by others, including by advertising, selling, offering for sale, or teaching a method of using such product to other parties, including its customers.

23. Pergo's infringement of the '486 patent has occurred with knowledge of the '486 patent, has been willful, and continues to be willful.

24. Unilin has sustained and will continue to suffer irreparable injury as a result of Pergo's past and continuing infringement of the '486 patent and has no adequate remedy of law.

COUNT II
(Infringement of United States Patent No. 6,490,836 B1)

25. Unilin incorporates herein by reference Paragraphs 1 through 20 of this Complaint as if set forth in full.

26. Pergo has made, used, offered for sale, sold, and/or imported in or into the United States Accused Products that infringe one or more claims of the '836 patent either directly or under the doctrine of equivalents and has contributed to and/or induced the infringement of the '836 patent by others, including by advertising, selling, offering for sale, or teaching a method of using such product to other parties, including its customers.

27. Pergo's infringement of the '836 patent has occurred with knowledge of the '836 patent, has been willful, and continues to be willful.

28. Unilin has sustained and will continue to suffer irreparable injury as a result of Pergo's past and continuing infringement of the '836 patent and has no adequate remedy of law.

COUNT III
(Infringement of United States Patent No. 6,874,292 B2)

29. Unilin incorporates herein by reference Paragraphs 1 through 20 of this Complaint as if set forth in full.

30. Pergo has made, used, offered for sale, sold, and/or imported in or into the United States Accused Products that infringe one or more claims of the '292 patent either directly or under the doctrine of equivalents and has contributed to and/or induced the infringement of the '292 patent by others, including by advertising, selling, offering for sale, or teaching a method of using such product to other parties, including its customers.

31. Pergo's infringement of the '292 patent has occurred with knowledge of the '292 patent, has been willful, and continues to be willful.

32. Unilin has sustained and will continue to suffer irreparable injury as a result of Pergo's past and continuing infringement of the '292 patent and has no adequate remedy of law.

COUNT IV
(Infringement of United States Patent No. 6,928,779 B2)

33. Unilin incorporates herein by reference Paragraphs 1 through 20 of this Complaint as if set forth in full.

34. Pergo has made, used, offered for sale, sold, and/or imported in or into the United States Accused Products that infringe one or more claims of the '779 patent either directly or under the doctrine of equivalents and has contributed to and/or induced the

infringement of the '779 patent by others, including by advertising, selling, offering for sale, or teaching a method of using such product to other parties, including its customers.

35. Pergo's infringement of the '779 patent has occurred with knowledge of the '779 patent, has been willful, and continues to be willful.

36. Unilin has sustained and will continue to suffer irreparable injury as a result of Pergo's past and continuing infringement of the '779 patent and has no adequate remedy of law.

COUNT V
(Infringement of United States Patent No. 6,955,020 B2)

37. Unilin incorporates herein by reference Paragraphs 1 through 20 of this Complaint as if set forth in full.

38. Pergo has made, used, offered for sale, sold, and/or imported in or into the United States Accused Products that infringe one or more claims of the '020 patent either directly or under the doctrine of equivalents and has contributed to and/or induced the infringement of the '020 patent by others, including by advertising, selling, offering for sale, or teaching a method of using such product to other parties, including its customers.

39. Pergo's infringement of the '020 patent has occurred with knowledge of the '020 patent, has been willful, and continues to be willful.

40. Unilin has sustained and will continue to suffer irreparable injury as a result of Pergo's past and continuing infringement of the '020 patent and has no adequate remedy of law.

COUNT VI
(Infringement of United States Patent No. 6,993,877 B2)

41. Unilin incorporates herein by reference Paragraphs 1 through 20 of this Complaint as if set forth in full.

42. Pergo has made, used, offered for sale, sold, and/or imported in or into the United States Accused Products that infringe one or more claims of the '877 patent either directly or under the doctrine of equivalents and has contributed to and/or induced the infringement of the '877 patent by others, including by advertising, selling, offering for sale, or teaching a method of using such product to other parties, including its customers.

43. Pergo's infringement of the '877 patent has occurred with knowledge of the '877 patent, has been willful, and continues to be willful.

44. Unilin has sustained and will continue to suffer irreparable injury as a result of Pergo's past and continuing infringement of the '877 patent and has no adequate remedy of law.

COUNT VII
(Infringement of United States Patent No. 7,040,068 B2)

45. Unilin incorporates herein by reference Paragraphs 1 through 20 of this Complaint as if set forth in full.

46. Pergo has made, used, offered for sale, sold, and/or imported in or into the United States Accused Products that infringe one or more claims of the '068 patent either directly or under the doctrine of equivalents and has contributed to and/or induced the infringement of the '068 patent by others, including by advertising, selling, offering for sale, or teaching a method of using such product to other parties, including its customers.

47. Pergo's infringement of the '068 patent has occurred with knowledge of the '068 patent, has been willful, and continues to be willful.

48. Unilin has sustained and will continue to suffer irreparable injury as a result of Pergo's past and continuing infringement of the '068 patent and has no adequate remedy of law.

COUNT VIII
(Infringement of United States Patent No. 7,328,536 B2)

49. Unilin incorporates herein by reference Paragraphs 1 through 20 of this Complaint as if set forth in full.

50. Pergo has made, used, offered for sale, sold, and/or imported in or into the United States Accused Products that infringe one or more claims of the '536 patent either directly or under the doctrine of equivalents and has contributed to and/or induced the infringement of the '536 patent by others, including by advertising, selling, offering for sale, or teaching a method of using such product to other parties, including its customers.

51. Pergo's infringement of the '536 patent has occurred with knowledge of the '536 patent, has been willful, and continues to be willful.

52. Unilin has sustained and will continue to suffer irreparable injury as a result of Pergo's past and continuing infringement of the '536 patent and has no adequate remedy of law.

COUNT IX
(Infringement of United States Patent No. 6,786,019 B2)

53. Unilin incorporates herein by reference Paragraphs 1 through 20 of this Complaint as if set forth in full.

54. Pergo has made, used, offered for sale, sold, and/or imported in or into the United States Accused Products that infringe one or more claims of the '019 patent either directly or under the doctrine of equivalents and has contributed to and/or induced the infringement of the '019 patent by others, including by advertising, selling, offering for sale, or teaching a method of using such product to other parties, including its customers.

55. Pergo's infringement of the '019 patent has occurred with knowledge of the '019 patent, has been willful, and continues to be willful.

56. Unilin has sustained and will continue to suffer irreparable injury as a result of Pergo's past and continuing infringement of the '019 patent and has no adequate remedy of law.

PRAYER FOR RELIEF

WHEREFORE, Unilin Beheer and Flooring Industries request that the Court enter judgment on the claims against Pergo as follows:

- (i) Finding that Pergo has infringed the Unilin Patents, either directly, contributorily, or by inducement, in violation of 35 U.S.C. § 271;
- (ii) Entering a permanent injunction prohibiting Pergo, and all those in concert with it, from actively inducing or continuing infringement of the Unilin Patents;
- (iii) Finding that Pergo's infringement of the Unilin Patents was willful;
- (iv) Awarding, pursuant to 35 U.S.C. § 284, damages adequate to compensate for Pergo's infringement of the Unilin Patents, in an amount to be determined at trial, but in no event less than a reasonable royalty;
- (v) Awarding, pursuant to 35 U.S.C. § 284, enhanced damages to Unilin in view of Pergo's willful and wanton infringement of the Unilin Patents;
- (vi) Awarding, pursuant to 35 U.S.C. § 284, Unilin interest on the damages and its costs incurred in this action;
- (vii) Declaring that this case is exceptional pursuant to 35 U.S.C. § 285 and awarding to Unilin its reasonable attorneys' fees, expenses, and costs incurred in this action; and
- (viii) Awarding any other and further relief as this Court may deem just and proper.

JURY DEMAND


Unilin Beheer and Flooring Industries hereby demand trial by jury on all issues triable to a jury.

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