

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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THE FIRST YEARS INC., and
LEARNING CURVE BRANDS, INC.

Plaintiffs,

v.

MUNCHKIN, INC.,

Defendant.
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07 C 0558 C
Civ. Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs The First Years Inc. and Learning Curve Brands, Inc. ("Plaintiffs") file this Complaint and demand for jury trial seeking relief for patent infringement by Defendant Munchkin, Inc. Plaintiffs state and allege the following:

NATURE OF LAWSUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

THE PARTIES

2. Plaintiff The First Years Inc. ("First Years") is a corporation organized and existing under the laws of the commonwealth of Massachusetts. First Years' principal corporate office is located at 100 Technology Center Drive, Stoughton, Massachusetts 02072. First Years is in the business of making and selling, among other things, feeding products for newborns, infants and toddlers. First Years is the assignee and owner of the patents involved in this lawsuit.

3. Plaintiff Learning Curve Brands, Inc. (“Learning Curve”) is a corporation organized and existing under the laws of the state of Delaware. Learning Curve’s principal corporate office is located at 2021 9th Street SE, Dyersville, Iowa 52040. Learning Curve is in the business of making and selling, among other things, feeding products for newborns, infants and toddlers. Learning Curve is the exclusive licensee of the patents involved in this lawsuit.

4. Defendant Munchkin, Inc. (“Munchkin”) is a corporation organized and existing under the laws of the state of California with its principal place of business at 16689 Schoenborn Street, North Hills, California 91343. Munchkin also has a corporate office in Van Nuys, California.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Munchkin because Munchkin has transacted business within this judicial district and therefore has substantial and continuous contacts within this judicial district; because Munchkin has purposefully availed itself to the privileges of conducting business in this judicial district; and because Munchkin has committed acts of patent infringement in this judicial district.

7. Venue properly lies within this judicial district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Defendant Munchkin has conducted business in this district and committed acts of patent infringement within this judicial district.

COUNT I – PATENT INFRINGEMENT OF U.S. PATENT NO. 6,976,604

8. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in the foregoing paragraphs 1-7 as though fully set forth herein.

9. On December 20, 2005, United States Patent No. 6,976,604 (“the ‘604 patent”) entitled “Restricting Flow in Drinking Containers” was duly and legally issued to inventors James A. Connors, Jr., David E. Medeiros and George S. Dys. First Years is the owner by assignment of the ‘604 patent. Learning Curve is the exclusive licensee of the ‘604 patent. Attached as Appendix A is a true and correct copy of the ‘604 patent.

10. Defendant Munchkin has infringed and continues to infringe the ‘604 patent by making, using, selling and offering to sell and importing the infringing Munchkin products, including products bearing the Munchkin brand name such as the Nick Jr., Dora the Explorer™ plastic two-piece re-usable spill-proof cup with lid. Other characters, such as Diego™, are also used on the Munchkin brand plastic two-piece re-usable spill-proof cups.

11. By making, using, selling and offering to sell and importing infringing products, Munchkin has infringed the ‘604 patent directly, contributorily and/or through inducement. Munchkin has engaged in the foregoing conduct in the United States without authority from Plaintiffs and during the term of the ‘604 patent.

12. Upon information and belief, Munchkin will continue to infringe the ‘604 patent unless and until it is enjoined by this Court.

13. Munchkin has caused and will continue to cause Plaintiffs irreparable injury and damage by infringing the ‘604 patent. Plaintiffs will suffer further irreparable injury, for which it has no adequate remedy at law, unless and until Munchkin is enjoined from infringing the ‘604 patent.

COUNT II – PATENT INFRINGEMENT OF U.S. PATENT NO. 7,185,784

14. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in the foregoing paragraphs 1-13 as though fully set forth herein.

15. On March 6, 2007, United States Patent No. 7,185, 784 (the “’784 Patent”) entitled “Drinking Containers” was duly and legally issued to inventors James A. Connors, Jr., David E. Medeiros, George S. Dys, James J. Britt and John A. Hession. First Years is the owner by assignment of the ’784 Patent. Learning Curve is the exclusive licensee of the ’784 Patent. Attached as Exhibit B is a true and correct copy of the ’784 Patent.

16. Defendant Munchkin has infringed and continues to infringe the ’784 Patent by making, using, selling and offering to sell and importing the infringing Munchkin products, including products bearing the Munchkin brand name, such as the Nick Jr., Dora the Explorer™ plastic two-piece re-usable spill-proof cup with lid. Other characters, such as Diego™, are also used on the Munchkin brand plastic two-piece re-usable spill-proof cups.

17. By making, using, selling and offering to sell and importing infringing products, Munchkin has infringed the ’784 Patent directly, contributorily and/or through inducement. Munchkin has engaged in the foregoing conduct in the United States without authority from Plaintiffs and during the term of the ’784 Patent.

18. Upon information and belief, Munchkin will continue to infringe the ’784 Patent unless and until it is enjoined by this Court.

19. Munchkin has caused and will continue to cause Plaintiffs irreparable injury and damage by infringing the ’784 Patent. Plaintiffs will suffer further irreparable injury, for which it has no adequate remedy at law, unless and until Munchkin is enjoined from infringing the ’784 Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court enter a judgment in First Years' favor and against Defendant Munchkin and provide Plaintiffs the following relief:

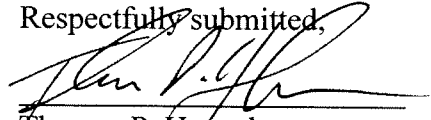
- A. Order, adjudge and decree that Defendant Munchkin has infringed the '604 patent and the '784 patent in violation of 35 U.S.C. § 271(a), (b) and (c);
- B. Issue permanent injunctive relief prohibiting Defendant Munchkin and its respective parents, subsidiaries, principals, officers, directors, agents, attorneys, employees and all others in privity with it from infringing the '604 patent and the '784 patent, pursuant to 35 U.S.C. § 283;
- C. Award Plaintiffs their damages for patent infringement and prejudgment interest and costs against Defendant Munchkin pursuant to 35 U.S.C. § 284; and
- D. Award such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs request a trial by jury on all issues appropriately triable by a jury.

Dated: October 5, 2007

Respectfully submitted,



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COUNSEL FOR PLAINTIFFS

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