

3. Sunshine Kids is Florida corporation having a principal place of business at 3104 142nd Avenue East, Suite 105, Sumner, WA 98390.

4. Sunshine Kids competes with Chicco in the juvenile products industry.

5. Sunshine Kids regularly conducts its business across the entire United States, including Pennsylvania and specifically within this judicial District.

Jurisdiction and Venue

6. This is a civil action arising under the Patent Laws of the United States of America, 35 U.S.C. § 101, *et seq.*

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT I Patent Infringement

9. Chicco incorporates by reference each of the allegations of the preceding paragraphs as if fully set forth herein.

10. The '396 Patent, titled "Infant Travel System," was duly and legally issued to Michael L. Longenecker and Bruce L. Williams on October 6, 2009. A copy of the '396 Patent is attached as Exhibit A.

11. Chicco is the owner of the '396 Patent by assignment, and Chicco has the exclusive right to sue, license, and collect past and future damages from infringers of the '396 Patent.

12. Sunshine Kids makes, uses, imports, offers to sell, sells, and distributes certain child travel seats sold as the Monterey™ Booster car seat that infringe the '396 Patent.

13. Chicco is currently aware of at least three configurations of Sunshine Kids' Monterey™ Booster car seat (collectively, "Sunshine Kids' accused products") that infringe the '396 Patent as shown below with the back rest and softgoods removed:

Configuration #1



Configuration #2



Configuration #3



14. Pages 12-13 of the instruction manual that accompanies each of Sunshine Kids' accused products states:

Section 4: ISOFAST Installation

To improve safety and performance, this booster seat is equipped with a unique, one-pull ISOFAST system that allows secure attachment to a vehicle's lower LATCH anchor locations.

...

- 1) Disengage ISOFAST anchors from storage position.
- 2) Lay booster seat on its side.
- 3) While depressing the cam lock lever (Fig. 3.1), pull the ISOFAST connectors away from the booster seat and extend both straps all the way. (Fig. 3.2)
- 4) Attach both ISOFAST connectors to the vehicle anchors for that seating position. (Fig. 4.1) starting with the connector that is furthest from you. For ease of use, make sure open end of hooks face upward during use.
- 5) Pull adjuster strap with one hand (Fig. 4.2) and with the other hand firmly push booster against vehicle seat and into proper position (Fig. 4.3), resting against the vehicle seat back and bottom. (Fig. 5A)

(Underline emphasis added). See Exhibits B (corresponding to Configuration #1), C (corresponding to Configuration #2), and D (corresponding to Configuration #3); see

also Exhibit E, which is a copy of Sunshine Kids' Monterey™ Booster car seat instruction manual downloaded from Sunshine Kids' website (http://www.skjp.com/product/97556/150XX/_/Monterey%26%23174%3B_Booster#).

15. Figures 3 and 4 of the instruction manuals that accompany each of Sunshine Kids' accused products are reproduced below:

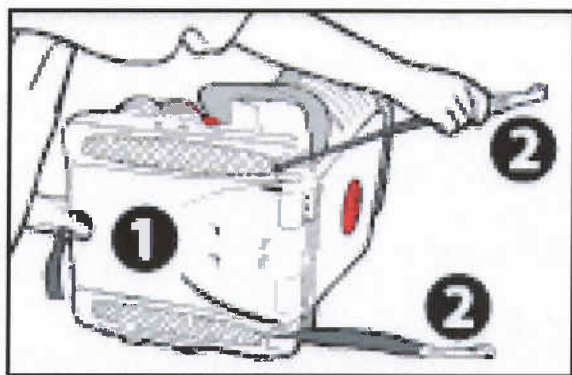


Fig 3

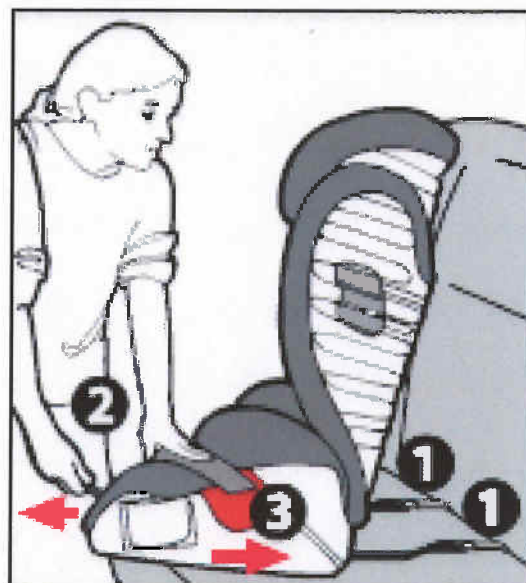


Fig 4

16. On September 4, 2009, Chicco's counsel wrote to Sunshine Kids to provide notice that Chicco's U.S. Patent Application No. 11/108,293 was allowed and that it would be issuing in the near future. The September 4, 2009 letter enclosed a copy of the allowed claims and stated that Chicco believed that Sunshine Kids' Monterey™ Booster car seat infringed the to be issued claims. Exhibit F.

17. On September 11, 2009, Sunshine Kids' counsel responded that Sunshine Kids has redesigned its Monterey™ Booster car seat and "[a]s a result of this redesign in the attachment system the Sunshine Kids Monterey Child Booster

Seat does not employ the construction found in any of the claims of the allowed application.” Exhibit G.

18. On September 21, 2009, Chicco’s counsel requested a production sample of Sunshine Kids’ redesigned product, a projected date for introduction of the redesigned product, a projected date for discontinuation of the current product in the marketplace, and the quantity of current product in the marketplace. Exhibit H.

19. On September 29, 2009, Sunshine Kids responded that, “[a]s of September 28, 2009 there were only 50 of the existing Monterey Child Boosters remaining and they will all have been sold and a replacement product will be offered in its place before the patent issues. Sunshine Kids also enclosed photographs of its proposed redesigned base for its Monterey™ Booster car seat. Exhibit I.

20. On October 6, 2009, Chicco’s counsel provided a copy of Chicco’s U.S. Patent No. 7,597,396 to Sunshine Kids’ counsel and responded to Sunshine Kids’ September 29, 2009 letter stating, “with respect to the product shown in the photographs accompanying your September 29, 2009 correspondence, we cannot agree that it avoids infringement of the ‘396 Patent,” and again Chicco requested a sample for further analysis. Exhibit J.

21. On October 6, 2009, Sunshine Kids’ counsel wrote:

I have advised our client that your patent has in fact issued. Sunshine Kids is no longer filling customer orders with the old configuration of the Monterey Booster Seat.

All orders are being filled with the replacement seat of which I sent photographs.

My client is currently in China and will return in approximately 10-days. At that time he will send the lower portion of the new seat configuration for your review.

Exhibit K.

22. On December 9, 2009, Chicco's counsel wrote to Sunshine Kids' counsel advising that the promised sample had still not been received. Chicco also stated:

On December 4, 2009, approximately two months after your promise of the redesigned base, we ordered a Monterey Child Booster Seat from Babies 'R Us. The shipping and sales documentation is attached. This product has the infringing restraint system which led to the initial contact with Sunshine Kids. The continued sale of this product constitutes willful infringement of Chicco's patent rights.

Exhibit L.

23. On December 14, 2009, Sunshine Kids' counsel responded that "all Monterey seats manufactured after October 1, 2009 were of the revised constructions as we discussed," and that "the remaining stock of the previous models was fully depleted as of 14 October" Exhibit M.

24. On December 15, 2009, Sunshine Kids' counsel wrote to advise that a sample of its current, redesigned product was being shipped to Chicco's counsel.
Exhibit N.

25. In violation of 35 U.S.C. § 271(a)-(c), Sunshine Kids is infringing one or more claims of the '396 Patent, is actively inducing others to infringe one or more claims of the '396 Patent, and is actively contributing to infringement by others of one or more claims of the '396 Patent by making, using, importing, offering to sell,

selling, and distributing Sunshine Kids' accused products, which include all three product configurations identified in Paragraph 13 above.

26. Sunshine Kids had notice of the '396 Patent and knew that its making, using, importing, offering to sell, selling, and distributing of Sunshine Kids' accused products infringes the '396 Patent.

27. Chicco has been injured by Sunshine Kids' infringement of the '396 Patent and will continue to be injured by Sunshine Kids' infringement of the '396 Patent unless enjoined from further infringement by this Court.

28. Sunshine Kids' past and future infringement of the '396 Patent has caused and will cause Chicco irreparable harm for which there is no adequate remedy at law.

29. Sunshine Kids' acts of infringement are in willful and wanton disregard of Chicco's rights accorded by the '396 Patent, and this case is exceptional within the meaning of 35 U.S.C. § 285.

Prayer for Relief

WHEREFORE, Chicco seeks a judgment against Sunshine Kids as follows:

- a. Enter judgment against Sunshine Kids for infringement of the '396 Patent.
- b. Enter judgment against Sunshine Kids for inducing infringement and engaging in contributory infringement of the '396 Patent.
- c. Awarding Chicco damages for Sunshine Kids' infringement of the '396 Patent.

- d. Declaring that Sunshine Kids' infringement of the '396 Patent is willful;
- e. Declaring that this case is exceptional pursuant to 35 U.S.C. § 285;
- f. Awarding Chicco treble damages, attorneys' fees costs, and prejudgment interest in this action under any and all applicable statutes;
- g. Enjoining Sunshine Kids, its officers, agents, servants, employees, and all those persons in active concert or participation with it from further infringement of the '396 Patent; and
- h. Awarding Chicco such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, Chicco USA, Inc., demands trial by jury as to all issues triable by jury in this case as a matter of right.

Respectfully submitted,

Date: February 19, 2010

By: Anthony S. Volpe
Anthony S. Volpe (PA 24,733)
Ryan W. O'Donnell (PA 89,775)
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103
Telephone: (215) 568-6400
Avolpe@volpe-koenig.com
RODonnell@volpe-koenig.com

*Attorneys for Plaintiff
Chicco USA, Inc.*