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U.S. DISTRICT COURT  
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TX EASTERN-MARSHALL

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**THE COLEMAN COMPANY, INC.,**

**Plaintiff,**

**vs.**

**EXXEL OUTDOORS, INC.,**

**Defendant.**

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**CIVIL ACTION 2-06CV-373**  
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**JURY TRIAL**

**ORIGINAL COMPLAINT**

Plaintiff The Coleman Company, Inc. ("Coleman"), files this Complaint against Exxel Outdoors, Inc. ("Exxel") for infringement of U.S. Patent No. 6,901,614 (the "'614 patent"), U.S. Patent No. 6,964,072 (the "'072 patent"), and U.S. Patent No. D504,552 ("the '552 Patent") (collectively, the "Patents-in-Suit") pursuant to 35 U.S.C. § 271. Copies of the Patents-in-Suit are attached as Exhibits A, B, and C.

**PARTIES**

1. Plaintiff Coleman is a Delaware corporation having its principal place of business at 3600 N Hydraulic, Wichita, Kansas 67219. Coleman designs, develops, and sells outdoor consumer products, including sleeping systems.

2. Upon information and belief, Defendant Exxel is a Delaware corporation having its principal place of business at 300 American Blvd., Haleyville, Alabama 35565. Exxel sells outdoor consumer products, including sleeping systems, in Texas and across the United States. Exxel is authorized to do business in the State of Texas and may be served with process by serving its registered agent, Harry Kazazian, 502 Enterprise, Laredo, Texas 78045.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code

4. This Court possesses subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Personal jurisdiction exists generally over Exxel because Exxel has sufficient minimum contacts with this forum as a result of its business conducted in the State of Texas and within the Eastern District of Texas. Additionally, Exxel is registered and authorized to conduct business within the State of Texas. Personal jurisdiction also specifically exists over Exxel because Exxel, directly or through intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and advertises (including through Wal-Mart's interactive web site) its products within the State of Texas and the Eastern District of Texas. Exxel purposefully and voluntarily has placed one or more of its infringing products, as described below in Count 1, into the stream of commerce with the expectation that they will be purchased by consumers in the Eastern District of Texas. Consumers have and continue to purchase Exxel's infringing products in the Eastern District of Texas.

6. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400(b)

**COUNT 1: PATENT INFRINGEMENT**

7. Coleman repeats and realleges the allegations set forth in paragraphs 1-6 above as if fully set forth herein.

8. The United States Patent and Trademark Office (“USPTO”) repeatedly has acknowledged Coleman’s many innovations by granting patents on multiple Coleman inventions, including sleeping systems.

9. On June 7, 2005, the USPTO duly and legally issued the ’614 Patent, entitled “Sleeping Bag with Clasp for Facilitating Rolling,” after a full and fair examination. Coleman is the assignee of all rights, title, and interest in and to the ’614 Patent and possesses all rights of recovery under the ’614 Patent, including the right to recover damages for past infringement.

10. On November 15, 2005, the USPTO duly and legally issued the ’072 Patent, entitled “Sleeping Bag with Clasp for Facilitating Rolling,” after a full and fair examination. Coleman is the assignee of all rights, title, and interest in and to the ’072 Patent and possesses all rights of recovery under the ’072 Patent, including the right to recover damages for past infringement.

11. On May 3, 2005, the USPTO duly and legally issued the ’552 Patent, entitled “Sleeping Bag,” after a full and fair examination. Coleman is the assignee of all rights, title, and interest in and to the ’552 Patent and possesses all rights of recovery under the ’552 Patent, including the right to recover damages for past infringement.

12. Each of the Patents-in-Suit is valid and enforceable.

13. Upon information and belief, Exxel has been and is now infringing the Patents-in-Suit in this District and elsewhere by making, using, offering for sale, and selling products that fall within the scope of at least one claim of each of the Patents-in-Suit, including, but not limited to, a product known as “Airbed Cover & Comforter,” which is sold and offered for sale under the Ozark Trail® brand name at Wal-Mart stores nationwide.

14. Coleman has no adequate remedy at law against Exxel's acts of infringement and, unless Exxel is enjoined from its infringement of the Patents-in-Suit, Coleman will suffer irreparable harm. Exxel will suffer less hardship as the result of an injunction than Coleman will suffer if an injunction is not issued, and an injunction will serve the public interest.

15. Exxel has knowledge of the '614, '072, and/or '552 Patents, and has not ceased its infringing activities. Exxel's infringement of the '614, '072, and/or '552 Patents has been and continues to be willful and deliberate.

16. At all relevant times, in accordance with 35 U.S.C. § 287, Coleman marked its products embodying the inventions claimed in the Patents-in-Suit.

17. Exxel, by way of its infringing activities, has caused and continues to cause Coleman to suffer damages in an amount to be determined at trial.

**PRAYER FOR RELIEF**

Coleman requests that judgment be entered in its favor against Exxel and prays that the Court:

- A. Find that Exxel has infringed the Patents-in-Suit;
- B. Enjoin Exxel and its officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and those active concert or participation with any of them, from infringing, inducing the infringement of, or contributing to the infringement of, any of the Patents-in-suit;
- C. Award to Coleman the damages to which it is entitled under 35 U.S.C. § 284 for Exxel's past infringement and any continuing or future infringement up until the date

Exxel is finally and permanently enjoined from further infringement, including both compensatory damages and treble damages for willful infringement.

D A judgment and order requiring Exxel to pay the costs of this action (including all disbursements), as well as attorneys' fees as provided by 35 U.S.C. § 285;

E Award to Coleman pre-judgment and post-judgment interest on its damages; and

F Award to Coleman such other and further relief as the Court deems just and equitable.

**DEMAND FOR JURY TRIAL**

In accordance with Fed. R. Civ. P. 38 and 39, Coleman hereby demands a trial by jury on all issues so triable.

DATED: September 15, 2006.

Respectfully submitted,

**McKOOL SMITH, P.C.**



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