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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

AVENUE INNOVATIONS, INC., a
Canadian corporation,

Plaintiff,

v.

ROSE HEALTH CARE, a Georgia limited
liability company,

Defendant.

**COMPLAINT
AND JURY DEMAND
(Patent Infringement)**

Case No. _____

Plaintiff Avenue Innovations, Inc. ("AII") hereby complains against defendant Rose Health Care, LLC ("RHC"), and for its causes of action alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff AII is a Canadian corporation having its principal place of business in Sidney, British Columbia.

2. On information and belief, defendant RHC is a company organized and operating under the laws of the state of Georgia with its principal place of business in Brunswick, Georgia.

3. This is an action for infringement under the patent laws of the United States, 35 U.S.C. § 271, *et. seq.* This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this Court under 28 U.S.C. § 1400(b) and 28 U.S.C. § 1391(c) because, on information and belief, RHC has committed certain of the acts alleged herein within this Judicial District and/or has intentionally placed infringing products within a stream of commerce directed at this Judicial District with the knowledge that such infringing products would be sold and/or used in this Judicial District. In view of the foregoing, RHC is subject to personal jurisdiction in this state and within this Judicial District and, therefore, resides within this Judicial District for purposes of venue.

FACTUAL ALLEGATIONS

5. AII does business in the automotive safety products industry. One of the products sold by AII is a portable handle device that is used to assist elderly, injured, or disabled persons with ingress and/or egress from an automobile. This product is sold under the name “Handybar®.”

6. On or about December 17, 1999, an application for United States Letters Patent, Application Serial No. 09/466,252 (the “Application”) was filed by William T. Pordy (the

“Inventor”). The Application disclosed one or more inventions incorporated into the Handybar® product.

7. In due course, the United States Patent and Trademark Office, on January 22, 2002, issued U.S. Patent No. 6,340,189 from the Application. U.S. Patent No. 6,340,189 is titled “Universal Device for Facilitating Movement Into and Out of a Seat” (hereinafter the “’189 Patent”). A copy of the ’189 Patent is attached hereto as **Exhibit A** and is incorporated herein by reference.

8. The ’189 Patent was originally assigned to Amp Company, Inc.

9. The ’189 Patent was subsequently assigned to, and is currently solely owned by, AII.

10. The ’189 Patent was duly and legally issued and is valid and enforceable.

11. AII is the owner of all right, title, and interest in and to the inventions covered by the ’189 Patent, and AII is entitled to receive all damages and the benefits of all other remedies for RHC’s infringement.

12. Since the ’189 Patent issued, AII has expended considerable time, effort, and money in the development, marketing, and sales of its products protected under the ’189 Patent, including the Handybar® product.

13. RHC has made, used, sold, and/or offered to sell, continues to make, use, sell, and/or offer to sell, and has caused others to make, use, sell, and/or offer to sell products that infringe the ’189 Patent, including, but not limited to, RHC products sold under the name “Universal Auto Grip” (the “Infringing Products”).

14. On information and belief, RHC has promoted, offered for sale, and/or sold Infringing Products to its customers in this Judicial District, and/or intentionally placed Infringing Products within a stream of commerce directed at this Judicial District with the knowledge that such Infringing Products would be sold and/or used in this Judicial District.

CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 6,340,189 – 35 U.S.C. § 271)

15. AII hereby incorporates the allegations in paragraphs 1 through 14 above as though fully set forth herein.

16. All maintenance fees for the '189 Patent have been timely paid, and the '189 Patent has at all time subsequent to its issue date been fully enforceable and is now fully enforceable.

17. AII is the assignee of record and holds all rights under the '189 Patent, including the right to sue for infringement.

18. RHC has been, and continues to be, making, using, selling, and/or offering to sell, or causing others to make, use, sell, and/or offer to sell the Infringing Products. The Infringing Products are within the scope of one or more claims of the '189 Patent and therefore infringe one or more claims of the '189 Patent.

19. The making, using, selling, offering to sell, or causing others to make, use, sell, and/or offer to sell the Infringing Products by RHC has been without authority or license from AII and in violation of AII's rights.

20. RHC has caused and will continue to cause AII substantial damage and irreparable injury by infringing the '189 Patent.

21. AII will suffer further irreparable injury, for which it has no adequate remedy at law, unless and until RHC is enjoined from infringing the '189 Patent.

22. AII is entitled to recover from RHC damages in an amount sufficient to compensate it for RHC's infringement of the '189 Patent, together with prejudgment interest thereon.

23. Upon information and belief, RHC's infringement of the '189 Patent was and is willful, intentional, and deliberate. Accordingly, this case is exceptional under 35 U.S.C. § 285, and AII is entitled to recover treble damages and its reasonable attorneys' fees, expenses, and costs incurred in this action.

PRAYER FOR RELIEF

WHEREFORE, AII respectfully requests that this Court enter judgment and relief against RHC as follows:

- A. For a judgment that RHC has infringed the '189 Patent;
- B. For an order enjoining RHC and its officers, agents, employees, parents, subsidiaries, affiliates, divisions, successors, and all persons in privity or active concert or participation with them from infringing the '189 Patent;
- C. For an order directing RHC to file with this Court and serve on counsel for AII, within 30 days after service of any injunction in this case (or within such extended period as the Court may direct), a report in writing under oath setting forth in detail the manner and form by which they have complied with the injunction requested in Paragraph B above;
- D. For an order directing that all documents, materials, and things, including but not limited to products, advertising and promotional materials, sales and marketing plans, and the like, which infringe, document infringement of, or otherwise violate AII's rights in the '189 Patent be delivered up to AII or destroyed;

- E. For an order directing RHC to file with this Court and serve on counsel for AII, within 30 days after this Court's Order, a statement in writing and under oath confirming that the material described in paragraph D above has been destroyed or delivered to AII;
- F. For an award of compensatory and consequential damages in an amount subject to proof at trial, together with pre- and post-judgment interest thereon; and
- G. For an order declaring that RHC's infringement was and is willful and that this case is exceptional under 35 U.S.C. § 285 and awarding AII treble damages and its reasonable attorneys' fees, expenses, and costs incurred in this action.
- H. For an award of such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to the Federal Rules of Civil Procedure § 38(b), Plaintiff AII demands a trial by jury for this action on all issues so triable.

Dated: December 21, 2010

STOEL RIVES LLP



Marc T. Rasich
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