

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK
BUFFALO DIVISION

CALIFORNIA INNOVATIONS INC.	§	
	§	
Plaintiffs	§	
	§	
v.	§	
	§	C.A. NO. _____
TRAVELERS CLUB LUGGAGE, INC., GOLF GIFTS & GALLERY, INC.	§	
	§	JURY TRIAL DEMANDED
	§	
Defendants	§	

ORIGINAL COMPLAINT

Plaintiff California Innovations Inc. (“CII”) files this Original Complaint against Defendants Travelers Club Luggage, Inc. (“TCL”) and Golf Gifts & Gallery, Inc. (“GGG”) alleging as follows:

THE PARTIES

1. Plaintiff, CII is a foreign corporation with its corporate office at 36 Dufflaw Road, Toronto, Ontario Canada, M6A 2W1.
2. Defendant, TCL, is a corporation organized and existing under the laws of the State of California with its principal place of business at 13003 S. Figueroa St., Los Angeles, California, 90061. TCL may be served through its registered agent, Peter Dalsoo Yu, at 13003 S. Figueroa St., Los Angeles, California, 90061.
3. On information and belief, Defendant, GGG, is a corporation organized and existing under the laws of the State of Wisconsin, with its principal place of business at N 1675 Powers Lake Rd., Powers Lake, Wisconsin, 53159. GGG may be served

through the Wisconsin Secretary of State pursuant to Fed. R. Civ. P. 4(c)(2)(c)(i) and BCL § 304(a).

JURISDICTION AND VENUE

4. This Complaint includes an action for infringement of a United States patent. Accordingly, this action arises under the patent laws of the United States of America, 35 U.S.C. section 1 *et seq.*, and jurisdiction over the infringement action is proper pursuant to 35 U.S.C. §§ 271, 281 and 28 U.S.C. § 1338(a).
5. Defendants transact business in, do business in, or may be found within the Western District of New York. Defendants have committed acts of infringement in the Western District of New York and have placed infringing products in the stream of interstate commerce that are presently being sold within the Western District of New York. Venue is therefore proper in the Western District of New York under 28 U.S.C. § 1391(b) and (c) and under 28 U.S.C. § 1400(b).

FIRST CAUSE OF ACTION FOR PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 6,237,776

5. On May 29, 2001, United States Patent No. 6,237,776 (“the ‘776 patent”) entitled “PACK STRUCTURE” was duly and legally issued. A true and correct copy of the ‘776 patent is attached as Exhibit A.
6. Pursuant to 35 U.S.C. § 282, the above-listed United States Patent is presumed valid.
7. CII, an assignee of the ‘776 Patent, at all times relevant hereto has had the right to file patent infringement suits to enforce the ‘776 patent rights.

8. On information and belief, Defendants, TCL and GGG, manufacture, use, sell and/or offer to sell products and/or systems as described and claimed in the '776 patent.
9. On information and belief, Defendants TCL and GGG, practice the methods and have made and offered for sale soft-side coolers as described and claimed in the '776 patent.
10. On information and belief, TCL has made, used, sold, offered for sale and/or imported goods including, but not limited to, TCL models 33019, 43018, 67019, 53014, 61014, 33014, 33015, 33214, 43010, 61010, 67214, 43022, 33221, 33216, 52013, 34214, & 33217.
11. On information and belief, GGG has made, used, sold, offered for sale and/or imported goods, including but not limited to GGG model "UC941" for practicing the methods claimed in the '776 patent.
12. By performing the acts detailed in Paragraphs 10 and 11 above, Defendants, TCL and GGG, have infringed and continue to infringe at least Claims 1, 38, 41, 42, and 43 of the '776 patent.
13. Upon information and belief, Defendants TCL and GGG will continue to infringe the '776 patent unless enjoined by this Court.
14. As a result of Defendants' infringing conduct, CII has been irreparably damaged to an extent not yet determined. CII will continue to be irreparably damaged by such acts in the future unless TCL and GGG are enjoined by this Court from committing further acts of infringement.

15. The infringement of the '776 patent alleged above has injured CII. Plaintiff is entitled to recover damages in an amount that adequately compensates CII for Defendants' infringement, which, in no event, can be less than a reasonable royalty.

**SECOND CAUSE OF ACTION FOR PATENT INFRINGEMENT
OF UNITED STATES PATENT NO. 6,439,389**

16. On August 27, 2002, United States Patent No. 6,439,389 ("the '389 patent") entitled "PACK ASSEMBLY" duly and legally issued. A true and correct copy of the '389 patent is attached as Exhibit B.
17. Pursuant to 35 U.S.C. § 282, the above-listed United States Patent is presumed valid.
18. CII, an assignee of the '389 Patent, at all times relevant hereto has had the right to file patent infringement suits to enforce the '389 patent rights.
19. On information and belief, Defendants TCL and GGG manufacture, use, sell, and/or offer to sell products and/or systems as described and claimed in the '389 patent.
20. On information and belief, Defendants TCL and GGG practice the methods and have made and sold soft-side coolers as described and claimed in the '389 patent.
21. On information and belief, TCL has made, used, sold, offered for sale and/or imported goods, including but not limited to TCL models 54018, 53108, 61018, 67018, 33018, 33019, 43018, 67019, 53014, 61014, 33014, 33014, 33214, 67214, 43022, 33216, 52013, 33014, & 34214 for practicing the methods claimed in the '389 patent.
22. On information and belief, GGG has made, used, sold, offered for sale and/or imported goods, including but not limited to GGG model "UC941" for practicing the

methods claimed in the '389 patent. By performing such acts, Defendants have committed and continue to commit direct infringement of at least Claims 1 and 14 of the '389 patent under 35 U.S.C. § 271.

23. Upon information and belief, Defendants, TCL and GGG, will continue to infringe the '389 patent unless enjoined by this Court.
24. As a result of Defendants' infringing conduct, CII has been irreparably damaged to an extent not yet determined. CII will continue to be irreparably damaged by such acts in the future unless TCL and GGG are enjoined by this Court from committing further acts of infringement.
25. The infringement of the '389 patent alleged above has injured CII. Plaintiff is entitled to recover damages in an amount that adequately compensates CII for Defendants' infringement, which in no event can be less than a reasonable royalty.

PRAYER FOR RELIEF

Plaintiff CII respectfully demands judgment against Defendants, TCL and GGG, granting CII the following relief:

- A. A declaration that TCL and GGG have infringed one or more claims of the '776 and '389 patents;
- B. An award to CII of all available and legally permissible damages caused by Defendants' infringing acts, but in no event less than a reasonable royalty;
- C. A permanent injunction against Defendants from further acts of infringement of the '776 and '389 patents;

- D. A declaration that this case is exceptional under 35 U.S.C. § 285, and on such basis, an award of attorney fees against Defendants;
- E. An award to CII of costs, pre-judgment and post-judgment interest; and
- F. An award to CII of all other legal and equitable relief available.


JURY DEMAND

In accordance with Fed. R. Civ. P. 38(b), CII hereby demands a trial by jury.

Respectfully submitted,

Date: August 1, 2005

WALL MARJAMA & BILINSKI LLP

By: 
James R. Muldoon

Office and P.O. Address
101 South Salina Street
Suite 400
Syracuse, New York 13202
Telephone: (315) 425-9000
Facsimile: (315) 425-9114

Of Counsel

Edward W. Goldstein
Jody M. Goldstein
GOLDSTEIN & FAUCETT, LLP
1177 West Loop South, Suite 400
Houston, TX 77027
Telephone: (713) 877-1515
Facsimile: (713) 877-1737

ATTORNEYS FOR PLAINTIFF