

NOV 20 2008

JAMES N. HATTEN, Clerk
By: *JNH* Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

WINWARE, INC.,
Plaintiff,

v.

AUTOCRIB, INC.,
Defendant.

Civil Action
File No.

1 08-CV-3582

JURY TRIAL DEMANDED

WSD

COMPLAINT

Plaintiff WinWare, Inc. ("WinWare") states its Complaint against Defendant AutoCrib, Inc. ("Defendant") as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.
2. This Court has subject matter jurisdiction over all causes of action set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338(a).
3. Venue is proper in this judicial district and division pursuant to 28 U.S.C. §§1391(b) and (c).

PARTIES

4. Plaintiff WinWare is a Georgia corporation with its principal place of business in Marietta, Georgia.

5. WinWare is the assignee and owner of all right, title, and interest in and to United States Patent No. 7,337,963 (“the ‘963 patent”).

6. Upon information and belief, Defendant is a California corporation with a principal place of business at 3011 S. Croddy Way, Santa Ana, California 92704. Upon information and belief, this Court has personal jurisdiction over Defendant.

COUNT ONE: INFRINGEMENT OF U.S. PATENT NO. 7,337,963

7. WinWare realleges and incorporates herein the allegations of paragraphs 1 through 6 of this Complaint as if fully set forth herein.

8. On March 4, 2008, United States Patent No. 7,337,963 (“the ‘963 patent”) was duly and legally issued for “Portal System for a Controlled Space.” WinWare is the assignee of and holds all rights and interest in the ‘963 patent. A true and correct copy of the ‘963 patent is attached hereto as Exhibit A.

9. Upon information and belief, Defendant has infringed directly and/or indirectly and continues to infringe directly and/or indirectly the ‘963 patent. The

infringing acts include, but are not limited to, the manufacture, use, sale, importation, and/or offer for sale of Defendant's IntelliPort product.

10. Upon information and belief, Defendant has knowledge of its infringement of the '963 patent, yet Defendant continues its infringement. The infringement of the '963 patent by Defendant is willful and deliberate, entitling WinWare to increased damages under 35 U.S.C. § 284, and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

11. WinWare has and continues to suffer damages as a direct and proximate result of Defendant's infringement of WinWare's '963 patent, and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. WinWare has no adequate remedy at law.

12. WinWare is entitled to: (1) damages adequate to compensate it for Defendant's infringement, which amounts to, at a minimum, a reasonable royalty; (2) treble damages; (3) its attorney fees and costs; and (4) a preliminary and permanent injunction.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff WinWare, Inc. prays that the Court enter judgment in favor of Plaintiff and against Defendant AutoCrib, Inc. as follows:

A. That Defendant be ordered to pay damages adequate to compensate WinWare for Defendant's infringement of WinWare's United States Patent No. 7,337,963, pursuant to 35 U.S.C. § 284;

B. That Defendant be ordered to pay treble damages and attorney's fees pursuant to 35 U.S.C. §§ 284 and 285;

C. That Defendant be enjoined from further infringement of WinWare's United States Patent No. 7,337,963, pursuant to 35 U.S.C. § 283;

D. That Defendant be ordered to pay prejudgment interest;

E. That Defendant be ordered to pay all costs associated with this action;

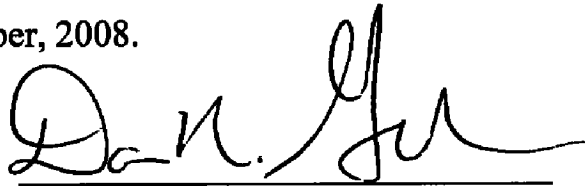
and

F. That WinWare be granted such other and additional relief as the Court deems just, equitable, and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff WinWare, Inc. demands a trial by jury of all issues triable of right by a jury.

This 20th day of November, 2008.

A handwritten signature in black ink, appearing to read "Dan R. Gresham", written over a horizontal line.

Dan R. Gresham

Georgia Bar No. 310280

N. Andrew Crain

Georgia Bar No. 193081

Melissa Rhoden

Georgia Bar No. 143160

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