

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

GARMIN INTERNATIONAL, INC.,)
GARMIN USA, INC., AND)
GARMIN SWITZERLAND GMBH.)
Plaintiffs,)

v.)

BRYTON, INC.,)
Defendant.)

Case No. 11-CV-2162 RDR/KGS

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Garmin International, Inc., Garmin USA, Inc., and Garmin Switzerland GmbH complain as follows against Defendant Bryton, Inc.

PARTIES

1. Garmin International, Inc. is a corporation organized and existing under the laws of the State of Kansas, with its principal place of business at 1200 East 151st Street, Olathe, Kansas 66062.

2. Garmin USA, Inc. is a corporation organized and existing under the laws of the State of Kansas, with its principal place of business at 1200 East 151st Street, Olathe, Kansas 66062.

3. Garmin Switzerland GmbH is a corporation organized and existing under the laws of Switzerland, with its principal place of business at Vorstadt 40-42, Schaffhausen, CH 8200, Switzerland. Hereinafter, Garmin International, Inc., and Garmin USA, Inc., and Garmin Switzerland GmbH are collectively referred to as “Garmin.”

4. On information and belief, defendant Bryton, Inc. (“Bryton”) is a corporation organized and existing under the laws of Taiwan, with its principal place of business at 6F, No. 100, Zhouzi St., Neihu Dist., Taipei City 114, Taiwan.

JURISDICTION

5. This is an action for patent infringement under the United States Patent Laws, 35 U.S.C. § 271, *et. seq.*

6. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338.

7. This Court has personal jurisdiction over Bryton because Bryton conducts business in the United States and this Judicial District. Bryton has advertised, promoted, marketed, offered for sale, and/or sold in the State of Kansas products, including but not limited to the Rider 30 cycling computer, Rider 50 cycling computer, the Bryton Bridge, the Bryton Sport website, and their associated accessories (the “Accused Products”), that infringe the claims of the patents at issue in this lawsuit. *See* Exhibit A. Bryton’s Rider 30 and Rider 50 cycling computers and their associated accessories are currently available for purchase at retailers nationwide, including at least two retailers in Kansas: Elite Cycling in Leawood, Kansas, and Trek Bicycle Store in Shawnee, Kansas. *See* Exhibit A. Accordingly, Bryton has committed acts of patent infringement in this Judicial District including, *inter alia*, importing, making, using, offering for sale, and/or selling infringing products in this Judicial District.

8. Bryton filed for trademark protection with the United States Patent and Trademark Office on its “B” mark (Serial No. 85-212102, filed January 6, 2011), and “Bryton” mark (Serial No. 85-016262, filed April 16, 2010). *See* Exhibit B.

VENUE

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400, as Bryton has regularly conducted business in this Judicial District and has committed, and is continuing to commit, acts of patent infringement by making, using, importing, selling, or offering to sell its Accused Products in this Judicial District. Venue is additionally proper in this Court pursuant to 28 U.S.C. § 1391(d), as Bryton is an alien that may be sued in any district.

FACTUAL BACKGROUND

10. Garmin is one of the largest and best-known manufacturers of innovative navigation devices that use global positioning system (“GPS”) technology. Garmin’s products span various areas of interest, including automotive, aviation, marine, fitness, outdoor recreation, and wireless applications. Included in Garmin’s fitness product line are its *Edge* GPS-enabled cycling computers. Garmin International and Garmin USA, Inc. sell Garmin’s products, including the *Edge* product line, in the United States.

11. Garmin Switzerland GmbH is the owner by assignment of all right, title, and interest in United States Design Patent D632,984 (“the ‘984 Patent”) entitled “Electronic Device,” which duly and legally issued in the names of Todd P. Register, Peter J. Henne, and Adam T. Sidor on February 22, 2011. A true and accurate copy of the ‘984 Patent is attached to the Complaint as Exhibit C.

12. Garmin International is the exclusive licensee, and holds all substantial rights and interests, to United States Patent 6,002,982 (“the ‘982 Patent”) entitled “Sports Computer With GPS Receiver And Performance Tracking Capabilities,” which duly and legally issued in the name of William R. Fry on December 14, 1999. A true and accurate copy of the ‘982 Patent is attached to the Complaint as Exhibit D.

13. Garmin International is the exclusive licensee, and holds all substantial rights and interests, to United States Patent 6,463,385 (“the ‘385 Patent”) entitled “Sports Computer With GPS Receiver And Performance Tracking Capabilities,” which duly and legally issued in the name of William R. Fry on October 8, 2002. A true and accurate copy of the ‘385 Patent is attached to the Complaint as Exhibit E.

14. Upon information and belief, Bryton is a Taiwanese company that imports, makes, offers for sale, imports, has sold and continues to sell the Accused Products in the United States, including this Judicial District.

COUNT 1: PATENT INFRINGEMENT
Infringement of the ‘984 Patent

15. Garmin realleges and incorporates by reference the allegations set forth in paragraphs 3-14 above.

16. Bryton has been, and currently is, committing acts of direct infringement of the ‘984 Patent by making, using, importing, selling, and/or offering for sale the Rider 30, and/or committing acts of indirect infringement of the ‘984 Patent by actively inducing and/or contributing to the infringement of the ‘984 Patent.

17. Bryton’s infringement of the ‘984 Patent will continue unless enjoined by this Court.

18. As a direct and proximate consequence of Bryton’s infringement of the ‘984 Patent, Garmin has suffered, is suffering, and unless enjoined by the Court, will continue to suffer injury, for which Garmin is entitled to damages pursuant to 35 U.S.C. § 284 of an amount to be proved at trial.

19. As a direct and proximate consequence of Bryton’s infringement of the ‘984 Patent, Garmin has suffered, is suffering, and unless enjoined by the Court, will continue to

suffer irreparable harm for which there is no adequate remedy at law, and for which Garmin is entitled to both preliminary and permanent injunctive relief pursuant to 35 U.S.C. § 283.

COUNT 2: PATENT INFRINGEMENT
Infringement of the '982 Patent

20. Garmin realleges and incorporates by reference the allegations set forth in paragraphs 3-19 above.

21. Bryton has been, and currently is, committing acts of direct infringement of the '982 Patent by making, using, importing, selling, and/or offering for sale the Accused Products, and/or committing acts of indirect infringement of the '982 Patent by actively inducing and/or contributing to the infringement of the '982 Patent.

22. Bryton's infringement of the '982 Patent will continue unless enjoined by this Court.

23. As a direct and proximate consequence of Bryton's infringement of the '982 Patent, Garmin has suffered, is suffering, and unless enjoined by the Court, will continue to suffer injury, for which Garmin is entitled to damages pursuant to 35 U.S.C. § 284 of an amount to be proved at trial.

24. As a direct and proximate consequence of Bryton's infringement of the '982 Patent, Garmin has suffered, is suffering, and unless enjoined by the Court, will continue to suffer irreparable harm for which there is no adequate remedy at law, and for which Garmin is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

COUNT 3: PATENT INFRINGEMENT
Infringement of the '385 Patent

25. Garmin realleges and incorporates by reference the allegations set forth in paragraphs 3-24 above.

26. Bryton has been, and currently is, committing acts of direct infringement of the '385 Patent by making, using, importing, selling, and/or offering for sale the Accused Products, and/or committing acts of indirect infringement of the '385 Patent by actively inducing and/or contributing to the infringement of the '385 Patent.

27. Bryton's infringement of the '385 Patent will continue unless enjoined by this Court.

28. As a direct and proximate consequence of Bryton's infringement of the '385 Patent, Garmin has suffered, is suffering, and unless enjoined by the Court, will continue to suffer injury, for which Garmin is entitled to damages pursuant to 35 U.S.C. § 284 of an amount to be proved at trial.

29. As a direct and proximate consequence of Bryton's infringement of the '385 Patent, Garmin has suffered, is suffering, and unless enjoined by the Court, will continue to suffer irreparable harm for which there is no adequate remedy at law, and for which Garmin is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

PRAYER FOR RELIEF

Wherefore, Garmin requests entry of judgment in its favor and against Bryton as follows:

A. Enter judgment that Bryton has directly and/or indirectly infringed one or more claims of the '984, '982, and '385 Patents;

B. Preliminarily enjoin Bryton and its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from any infringement of the '984 Patent, whether direct or indirect;

C. Permanently enjoin Bryton and its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from any infringement of the '984, '982, and '385 Patents, whether direct or indirect;

D. Award damages to compensate Garmin for Bryton's infringement of the '984, '982, and '385 Patents pursuant to 35 U.S.C. § 284;

E. Award to Garmin enhanced damages, pursuant to 35 U.S.C. § 284;

F. Award to Garmin pre-judgment and post-judgment interest and costs to Garmin in accordance with 35 U.S.C. § 284;

G. Award to Garmin its reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and

H. For any such other and further relief as the Court may deem just, proper, and equitable under the circumstances.

DEMAND FOR JURY TRIAL

Garmin respectfully demands a trial by jury on all claims and issues so triable.

DESIGNATION OF PLACE OF TRIAL

Garmin hereby designates Kansas City, Kansas as place of trial pursuant to Local Rule 40.2.

Respectfully Submitted,

Dated: March 21, 2011

/s/ Adam P. Seitz

Adam P. Seitz (Kansas Bar No. 21059)

aseitz@shb.com

Michelle L. Marriott (motion for admission *pro hac vice* to be filed)

Mary Jane Peal (motion for admission *pro hac vice* to be filed)

Aaron W. Purser (motion for admission *pro hac vice* to be filed)

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**ATTORNEYS FOR PLAINTIFFS GARMIN
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