

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STREAMLIGHT, INC.	:	
30 Eagleville Road	:	
Eagleville, PA 19403	:	
Plaintiff,	:	
	:	
v.	:	No. _____
	:	
NEXTORCH, INC.	:	
4403 Russell Road, Suite 104	:	
Mukilteo, WA 98275	:	
Defendant.	:	

COMPLAINT

Plaintiff Streamlight, Inc. (“Streamlight”), by and through its undersigned attorneys for its Complaint against Defendant Nextorch, Inc. (“Defendant”), alleges the following:

NATURE OF THE ACTION

1. This is an action for (i) patent infringement under 35 U.S.C. § 271 *et seq.*; (ii) federal trademark infringement under the Lanham Act 15 U.S.C. § 1051 *et seq.*; and (iii) trademark infringement under Pennsylvania common law.

2. Upon information and belief, Defendant has infringed:
 - a. at least one claim in the following U.S. Patent assigned to Streamlight: U.S. Patent No. 7,188,978 (“the Streamlight Patent”); and
 - b. the following Federal Trademark Registrations assigned to Streamlight, and the common law rights in the associated trademarks: U.S. Trademark Reg. No. 3,341,585 for “TLR-1”; U.S. Trademark Reg. No. 2,938,625 for “TL-2”; and U.S. Trademark Reg. No. 2,938,624 for “TL-3” (collectively “the Streamlight Trademarks”).

THE PARTIES

3. Streamlight is a Delaware corporation having a principal place of business at 30 Eagleville Road, Eagleville, PA 19403.

4. Upon information and belief, Defendant is a Washington corporation having a principal place of business at 4403 Russell Road, Suite 104, Mukilteo, WA 98275.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to the provisions of 28 U.S.C. §§ 1331 and 1338 and 15 U.S.C. §§ 1116 and 1121, in that this action arises under the patent laws and trademark laws of the United States, and under the principles of supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

6. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant conducts business in this judicial district, and/or because Defendant has caused tortious injury to Plaintiffs in this judicial district and regularly do business in this judicial district.

7. Venue is proper in the Eastern District of Pennsylvania under 28 U.S.C. § 1391.

FACTUAL BACKGROUND

Streamlight's Products

8. Streamlight has manufactured and sold portable lighting products since 1973.

9. Streamlight's products are sold in Pennsylvania, throughout the United States and throughout the world for a range of applications, including military, law enforcement, firefighting, first responders, safety, automotive, industrial, and sporting goods applications.

10. Streamlight sells a wide range of portable lighting products including gun-mounted lights, flashlights, penlights, lanterns, and headlamps.

11. Streamlight is the assignee of U.S. Patent No. 7,188,978, issued on March 13, 2007 and entitled "Light Mountable On A Mounting Rail." A copy of this patent is attached as **Exhibit 1**.

12. Streamlight is the owner of the TLR-1 trademark, registered on November 20, 2007, for International Class 11 covering gun mounted lights. A copy of this registration is attached as **Exhibit 2**.

13. Streamlight is the owner of the TL-2 trademark, registered on April 5, 2005, for International Class 11 covering handheld flashlights. A copy of this registration is attached as **Exhibit 3**.

14. Streamlight is the owner of the TL-3 trademark, registered on April 5, 2005, for International Class 11 covering handheld flashlights. A copy of this registration is attached as **Exhibit 4**.

15. Streamlight markets and sells multiple products, including the **TLR-1[®]**, the **TLR-2[®]**, and the **TLR-3[®]**, covered by and marked on the product and/or the product packaging with the number of the Streamlight Patent.

Defendant's Infringement

16. Upon information and belief, Defendant is in the business of importing, making, having made, selling, using, and/or distributing products that infringe the Streamlight Patent.

17. Upon information and belief, Defendant imports, manufactures, sells, offers to sell, uses, and/or distributes one or more lights including one advertised under the name "TL1", as shown on Defendant's website. A copy of Defendant's website is attached as **Exhibit 5**.

18. Defendant advertises that the TL1 light can be mounted to the rail of a weapon, such as a handgun or a rifle, as shown on Defendant's Website. See Exhibit 5.

19. Defendant has sold or caused to be sold in the Eastern District of Pennsylvania the TL1 light.

COUNT 1

(Patent Infringement)

20. Streamlight repeats and re-alleges each allegation contained in paragraphs 1 through 19 of this Complaint, as if fully set forth herein.

21. The Streamlight Patent is valid and enforceable.

22. Upon information and belief, Defendant has imported, manufactured, offered to sell, sold, used, and/or distributed in the United States, gun-mounted light products that fall within the scope of at least one claim of the Streamlight Patent, in violation of 35 U.S.C. § 271, *et seq.*

23. Upon information and belief, the acts of infringement by Defendant described above have been and continue to be intentional and willful.

24. Streamlight is entitled to damages as a result of the intentional and willful infringement by Defendant.

25. Defendant has caused irreparable damage to Streamlight by its acts of infringement described above, and will continue its acts of infringement unless preliminarily and permanently enjoined by this Court.

COUNT II

(Federal Trademark Infringement)

26. Streamlight repeats and re-alleges each allegation contained in paragraphs 1 through 25 of this Complaint, as if fully set forth herein.

27. Defendant's acts, as alleged above, are without permission or authorization of Streamlight and are likely to cause confusion, mistake and/or deception, and constitute trademark infringement under the Lanham Act, 15 U.S.C. §§ 1114-1118.

28. Defendant has infringed the Streamlight Trademarks in interstate commerce by various acts, including, without limitation, the selling, offering for sale, promotion and

advertising of light products bearing the TL1 name, which is confusingly similar to the Streamlight Trademarks used in association with lights offered by Streamlight.

29. Defendant has adopted, used, marketed and promoted its light products in bad faith with an attempt to trade on Streamlight's reputation and goodwill.

30. Defendant's infringement is knowing, deliberate, and willful.

31. Defendant's infringement of the Streamlight Trademarks has caused actual confusion among consumers.

32. Defendant has caused irreparable damage to Streamlight by its acts of infringement described above, and will continue its acts of infringement unless preliminarily and permanently enjoined by this Court.

COUNT III

(Common Law Trademark Infringement)

33. Streamlight repeats and re-alleges each allegation contained in paragraphs 1 through 32 of this Complaint, as if fully set forth herein.

34. Streamlight has used and is the owner of the Streamlight Trademarks in the Commonwealth of Pennsylvania.

35. The use and advertising of confusingly similar variations of the Streamlight Trademarks by Defendant constitutes trademark infringement in violation of the common law of Pennsylvania, and causes a likelihood of confusion, deception, and mistake.

36. Defendant has adopted, used, marketed and promoted its light products in bad faith with an attempt to trade on Streamlight's reputation and goodwill.

37. Defendant's infringement is knowing, deliberate, and willful.

38. Defendant has caused irreparable damage to Streamlight by its acts of infringement described above, and will continue its acts of infringement unless preliminarily and permanently enjoined by this Court.

PRAYER FOR RELIEF

In view of the foregoing, Streamlight asks that this Court grant relief as follows:

A. For judgment that the Streamlight Patent has been infringed by Defendant under 35 U.S.C. § 271, and that such infringement was willful;

B. For judgment that Streamlight's federally registered trademarks have been infringed by Defendant under 15 U.S.C. § 1114;

D. For judgment that the Streamlight Trademarks have been infringed under Pennsylvania common law;

E. For Defendant, its officers, agents, servants, employees, successors, assigns, and all other persons in active concert or participation with any of them, to be preliminarily and permanently enjoined from infringing the Streamlight Patent;

F. For Defendant, its officers, agents, servants, employees, successors, assigns, and all other persons in active concert or participation with any of them, to be permanently enjoined from use of any confusingly similar designation as a trademark, trade dress, service mark, or otherwise to market, advertise, or identify Defendant or its goods and services;

G. For an accounting of Defendant's profits and an assessment of Streamlight's damages to compensate Streamlight for Defendant's infringement of the Streamlight Patent;

H. For an award of the amount by which Defendant has been unjustly enriched by confused consumers who have purchased Defendant's products under the belief that they were purchasing Streamlight's;

I. For an assessment of treble damages against Defendant due to the deliberate, willful, and knowing nature of its infringement of the Streamlight Patent under 35 U.S.C. § 284 and of the Streamlight Trademarks under 15 U.S.C. § 1117(b);

J. For an award to Streamlight of its reasonable attorneys' fees under 35 U.S.C. § 285 and 15 U.S.C. § 1117;

K. For an award to Streamlight of its costs in this action plus interest on all monetary damages awarded; and


L. For such other and further relief as this Court deems just and fair.

DEMAND FOR JURY TRIAL

Streamlight hereby demands a trial by jury of all issues in this action so triable.

Respectfully submitted,

Dated: 7/31/2012


Benjamin E. Leace (Pa. No. 54281)
Andrew J. Koopman (Pa. No. 210026)
RatnerPrestia
1235 Westlakes Drive
Suite 301
Berwyn, PA 19312
(610) 407-0700
(610) 407-0701
beleace@ratnerprestia.com
akoopman@ratnerprestia.com

ATTORNEYS FOR PLAINTIFF,
Streamlight, Inc.

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