

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

I GOTCHA HOLDINGS, LLC,

Plaintiff,

Case No.: 6:11-cv-1969-Orl-31DAB

v.

FEEL GOLF COMPANY, INC.,

Defendant.

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT
JURY TRIAL AND INJUNCTIVE RELIEF REQUESTED**

Plaintiff, I GOTCHA HOLDINGS, LLC., sues the Defendant, FEEL GOLF COMPANY, INC., and alleges:

PARTIES, JURISDICTION and VENUE

1. Plaintiff I GOTCHA HOLDINGS, LLC. (“IGH”) is a Florida Limited Liability Company with a principal place of business at 701 Forest View Court, Winter Springs, Florida 32708

2. Defendant, FEEL GOLF COMPANY, INC., (“FGCI”) is a California corporation with a principal address of 1354 Dayton Street, Suite T, Salinas, California 93901 and doing business at 107 Commerce Way, Sanford, Florida 32771.

3. This Court has original and exclusive jurisdiction pursuant to 28 U.S.C. §1338(a).

4. FGCI conducts business within this State and/or judicial district; has committed a tortious act within this State and/or judicial district, including acts of patent infringement, within

this State and/or judicial district; and, engages in substantial and not isolated activity within this state and/or this judicial district thereby subjecting FGCI to the personal jurisdiction of this Court.

5. Venue is proper in the Middle District of Florida under 28 U.S.C. §§1391(b) and (c), and 28 U.S.C. §1400(b), and in this Division pursuant to Local Rule 1.02 of the United States District Court for the Middle District of Florida.

BACKGROUND

6. On June 1, 1999, the United States Patent Office issued a patent to Frank L. Dinardo for HANDLE CONSTRUCTION FOR GOLF BALL RETRIEVER, U.S. Patent No. 5,908,214 (the “‘214 Patent”). The ‘214 Patent discloses and claims a holding mechanism for a telescopic handle comprising a plurality of telescoping hollow tubes characterized by relative sliding stiffness between each of the tubes and having a similar resistance to rotation. A true and correct copy of the ‘214 Patent is attached hereto as Exhibit “A”.

7. On June 11, 2006, the United States Patent Office issued a patent to Albert James Light for a HANDLE CONTRUCTION FOR GOLF BALL RETRIEVER, U.S. Patent No. 7,073,228 (the “‘228 Patent”). The ‘228 Patent discloses and claims a telescoping handle having a plurality of telescoping hollow tubes characterized by relative sliding stiffness between each of the tubes and have a similar resistance to rotation, the handle comprising a plurality of stiffeners having an outside diameter sized to fit snugly within the inside diameter of an associated tube. A true and correct copy of the ‘228 Patent is attached hereto as Exhibit “B”.

8. I GOTCHA HOLDINGS, LLC is the owner of legal title to the ‘214 Patent and the ‘228 Patent through assignment which has been recorded with the United States Patent and

Trademark Office. True and correct copies of the respective assignments are attached hereto as Exhibits “C” and “D.”

9. On or about December 4, 2010, the Parties, IGH and FGCI entered into an Agreement, (hereinafter referred to as the “IGH Consulting Agreement”), a copy of which is attached hereto and incorporated herein as Exhibit “E”.

10. The IGH Consulting Agreement provides that “So long as this Agreement remains in effect and in good standing, IGH will grant the license of the IP exclusively to Feel Golf Company, Inc.” *See* § 2.03 of Exhibit “E.” The ‘214 and ‘228 patents are included in that IP.

11. On November 4, 2011, FGCI, through its attorney, Michael Herring, Esquire, provided Notice of Cancellation of the Consulting Agreement to the undersigned. A true and correct copy of this Notice of Cancellation is attached hereto as Exhibit “F.” Accordingly, the IGH Consulting Agreement is no longer “in effect and in good standing” and Defendant FGCI is no longer licensed to use the above referenced IP, including the ‘214 and ‘228 patents.

12. In response to Mr. Herring’s November 4, 2011 email correspondence the undersigned counsel sent a letter dated November 15, 2011 acknowledging the Notice of Cancellation and stating that “**all licenses granted** pursuant to paragraph 2.03 of the IGH Consulting Agreement as well as all other provisions of the Consulting Agreement **are terminated**. Your client must immediately cease using any patent or trademark granted FGCI under paragraph 2.03 of the IGH Consulting Agreement. Your client must immediately cease using the name Pro Line Sports or any iteration thereof.” In addition, a subsequent letter dated

November 22, 2011 was sent again advising Defendant that all licenses granted under the Consulting agreement are terminated. A true and correct copy of the November 15, 2011 letter and the November 22, 2011 letter are attached hereto as Composite Exhibit "G."

13. In spite of the termination of the IGH Consulting Agreement and the licenses granted thereunder, the Defendant, FEEL GOLF COMPANY, INC., continues to knowingly and willfully manufacture, sell and offer for sale products disclosed and claimed in the '214 Patent and '228 Patents without authorization of IGH. Copies of Sales Orders for products covered by the '214 and '228 Patents are attached hereto as composite Exhibit "H."

14. All conditions precedent to the institution and maintenance of this action have occurred or have been performed.

COUNT I- DIRECT INFRINGEMENT '214 PATENT

15. Plaintiff, I GOTCHA HOLDINGS, LLC, hereby incorporates and re-alleges the allegations contained in Paragraphs 1 through 14 above as though fully set forth and restated herein.

16. This is a cause of action against FEEL GOLF COMPANY, INC., pursuant to 35 U.S.C. § 271(a) for direct infringement of the '214 Patent

17. FEEL GOLF COMPANY, INC., has directly infringed one or more claims of the '214 Patent by making, using, offers to sell and/or selling products that are claimed in the '214 Patent in the United States or importing such products in the United States without the authorization of I GOTCHA HOLDINGS, LLC, in violation of 35 U.S.C. § 271(a).

18. On information and belief, FEEL GOLF COMPANY, INC.'S., acts of infringement are willful.

20. On information and belief, one or more acts of direct infringement have occurred in or from the Middle District of Florida, since the termination of the IGH Consulting Agreement and the termination of the licenses granted thereunder of the '214 Patent; thereby giving rise to specific jurisdiction over FEEL GOLF COMPANY, INC.,.

21. FEEL GOLF COMPANY, INC.'S, acts of direct infringement have damaged and will continue to damage I GOTCHA HOLDINGS, LLC causing irreparable harm, for which there is no adequate remedy at law. Such unlawful acts and damage will continue to occur unless enjoined by this Court. This is evident by Defendant's failure to pay as agreed during the period of time in which the license for the Patents was in effect. Plaintiff has filed a separate suit in State Court seeking payments of \$398,284.98 for amounts past due under the Consulting Agreement with provided for the license to the patents.

COUNT II- DIRECT INFRINGEMENT – '228 PATENT

22. Plaintiff, I GOTCHA HOLDINGS, LLC, hereby incorporates and re-alleges the allegations contained in Paragraphs 1 through 14 above as though fully set forth and restated herein.

23. This is a cause of action against FEEL GOLF COMPANY, INC., pursuant to 35 U.S.C. § 271(a) for direct infringement of the '228 Patent

24. FEEL GOLF COMPANY, INC., has directly infringed one or more claims of the '228 Patent by making, using, offers to sell and/or selling products that are claimed in the '228 Patent in the United States or importing such products in the United States without the authorization of I GOTCHA HOLDINGS, LLC, in violation of 35 U.S.C. § 271(a).

25. On information and belief, FEEL GOLF COMPANY, INC'S., acts of infringement are willful.

26. On information and belief, one or more acts of direct infringement have occurred in or from the Middle District of Florida, since the termination of the IGH Consulting Agreement and the termination of the licenses granted thereunder of the '228 Patent; thereby giving rise to specific jurisdiction over FEEL GOLF COMPANY, INC.

27. FEEL GOLF COMPANY, INC., acts of direct infringement have damaged and will continue to damage I GOTCHA HOLDINGS, LLC causing irreparable harm, for which there is no adequate remedy at law. Such unlawful acts and damage will continue to occur unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, I GOTCHA HOLDINGS, LLC respectfully requests that this Honorable Court enter such orders and judgments as are necessary to provide the following relief:

A) Preliminary Injunctive relief against Defendant, FGCI, enjoining Defendant and their employees, agents, attorneys, privies and all those in active concert or participation therewith, from continuing to infringe the '214 and '228 Patents, pursuant to 35 U.S.C. §283;

B) Permanent Injunctive relief enjoining all acts of infringement as provided under 35 U.S.C. § 283;

C) Compensatory damages as provided under 35 U.S.C. § 284;

D) Enhancement of damages as provided under 35 U.S.C. § 284;

- E) An award of I GOTCHA HOLDINGS, LLC's reasonable attorneys fees and costs as provided under 35 U.S.C. § 285 and Rule 54(d), Fed.R.Civ.P.;
- F) An award of prejudgment and post-judgment interest; and
- G) Such other and further relief as the Court deems just, fair and appropriate.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

Dated this 6th day of January, 2012.

Respectfully Submitted,
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF System this 6th day of January, 2012, which will send a copy by e-mail to Damon A. Chase, Esquire, CHASE FREEMAN, 1525 International Parkway, Suite 4021, Lake Mary, Florida 32746.

/s/ Jackson O. Brownlee
Attorney