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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Portland Division

**TK PRODUCTS, INC., a Washington
corporation dba Ukiah Co.,**

Plaintiff,

v.

GHP GROUP, INC., an Illinois corporation,

Defendant.

Case No. 3:22-cv-00482

COMPLAINT

DEMAND FOR JURY TRIAL

TK Products, Inc. (“Plaintiff” or “Ukiah”), by and through their counsel, for its Complaint against GHP Group, Inc. (“Defendant”), hereby alleges as follows:

NATURE OF ACTION

1. This is an action for declaratory judgment under 28 USC §§ 2101-2202 and intentional interference with economic relations arising out of state common law.

2. Defendant has wrongfully accused Plaintiff of infringing its patents, without support for such allegation. Further, Defendant demands that Ukiah discontinue making and recall all Loom II products currently on the market, which would result in Ukiah being unable to fulfill its contractual obligations with customers, retailers and distributors. By this demand, Defendant seeks to interfere with Ukiah's economic relations for its own benefit as Ukiah and Defendant provide products to many of the same retailers.

THE PARTIES, JURISDICTION AND VENUE

3. Plaintiff is a Washington corporation doing business as Ukiah Co. Plaintiff's principal offices and warehouse are located in Portland, Oregon. Plaintiff sells its products throughout the country and abroad.

4. Defendant is an Illinois corporation with its principal place of business in Illinois.

5. Jurisdiction is based on diversity under 28 USC § 1332. Plaintiff is a citizen of Washington, Defendant is a citizen of Illinois. Thus, there is complete diversity and the amount in controversy exceeds \$75,000.

6. Jurisdiction is further based on this civil action arising under the laws of the United States under 28 USC § 1331. Specifically, this case involves claims arising under Acts of Congress relating to patents pursuant to 28 USC § 1338(a).

7. This court has personal jurisdiction over the parties because the parties conduct business in the state of Oregon and within the district regarding the subject matter of this case.

8. Venue in Oregon is appropriate under 28 USC § 1391(2) because a substantial part of the events giving rise to the claims occurred in this district and judicial division.

FACTS

9. Plaintiff designed and developed the Loom II product in April 2018. The Loom II

is a table-top speaker with a fire pit option that allows the flame to dance to music.

10. Plaintiff's CEO, Trent Farrer, designed the Loom II in Oregon.

11. In the summer of 2021, Defendant acquired Bond Manufacturing Co., Inc. ("Bond"), which was the previous owner of Defendant's patents.

12. On or about February 24, 2022, Defendant sent Plaintiff a cease-and-desist letter. In it, Defendant claims, among other things, that Ukiah's use, sale, promotion, and marketing of the Loom II product infringes claims of Defendants' patents. Specifically, Defendant asserted claim 11 of US Patent No. 10,520,188 and provided a claim chart containing Defendant's infringement analysis.

13. Defendant further asserted that Plaintiff's recent hiring of Jay Nehls is evidence of "willful infringement" because Mr. Nehls worked for Bond at some point in the past. But the Loom II, as it exists today, has been for sale in commerce since 2018, predating any involvement by Mr. Nehls. Defendant's cease-and-desist letter appears predicated on animosity and a prior dispute between Bond CEO Cameron Jenkins and Mr. Nehls, which is unrelated to Plaintiff. Upon information and belief, Defendant sent the cease-and-desist letter to create tension between Plaintiff and Mr. Nehls rather than address a legitimate claim of patent infringement.

14. In early 2022, Defendant contacted the factory Plaintiff uses to manufacture the Loom II. Defendant wrongfully instructed the factory to stop producing the product, claiming it infringes Defendant's patent.

15. Plaintiff supplies its products, including the Loom II, to large retailers throughout the United States. Plaintiff has entered into contracts with these retailers to supply certain products. Plaintiff is concerned Defendant's interference with Plaintiff's factory will affect Plaintiff's ability to fulfill its contracts. Further, if Defendant contacts retailers Plaintiff works

with, Defendant's false allegations of infringement or employment impropriety could negatively impact those business relationships and Plaintiff's reputation.

FIRST CAUSE OF ACTION

(Declaratory Judgment)

16. Plaintiff incorporates and realleges paragraphs 1 - 15 herein.

17. Defendant takes the position that Plaintiff has infringed at least one claim of Defendant's patents.

18. Plaintiff objects to and denies Defendant's position.

19. An actual and justiciable controversy has arisen and now exists between the parties with regard to the issues stated in this complaint.

20. Accordingly, Plaintiff is entitled to seek a judicial determination of whether its use and sale of the Loom II product infringes on the patent held by Defendant and identified in its cease and desist letter.

21. Plaintiff requests that the court declare that there has been no infringement.

SECOND CAUSE OF ACTION

(Intentional Interference with Economic Relations)

22. Plaintiff incorporates and realleges paragraphs 1 - 21 herein.

23. Plaintiff has multiple contracts to deliver Loom II products to large retailers throughout the United States.

24. Defendant has intentionally interfered with these business relationships by falsely claiming Plaintiff has infringed Defendant's patents, suggesting that Plaintiff has improperly hired a former Bond employee, and instructing the factory Plaintiff works with to cease production of Plaintiff's products.

25. Defendant's unfounded accusations seek to improperly tarnish and sever Ukiah's business relationships in an effort to bring a larger market share to Defendant.

26. As a result of Defendant's interference, Ukiah has been damaged in an amount to be proven at trial, not less than \$100,000.

THIRD CAUSE OF ACTION

(Preliminary & Permanent Injunctive Relief)

27. Plaintiff incorporates and realleges paragraphs 1 - 26 herein.

28. If Defendant continues to contact the factory Plaintiff works with or contacts the retailers who purchase Plaintiff's products with Defendant's false claims, as outlined above, Plaintiff will be irreparably harmed. Plaintiff's reputation and business relationship with its customers are invaluable assets.

29. Plaintiff has no adequate remedy at law for Defendant's interference with Plaintiff's business relations and harm to Plaintiff's reputation.

30. Plaintiff is entitled to an order enjoining Defendant from:

- (a) Contacting the factory that produces Plaintiff's products for the purpose of halting such production;
- (b) Falsely claiming that Plaintiff is infringing Defendant's patents and making such false claim known to Plaintiff's industry in an effort to harm Plaintiff's reputation;
- (c) Contacting retailers with whom Plaintiff has contracts to deliver certain products for the purpose of interfering with said contracts;
- (d) Such other relief as the court deems just and equitable.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

On Plaintiff's FIRST CLAIM FOR RELIEF:

1. For judgment against Defendant declaring that Plaintiff's use and sale of the Loom II product does not infringe on Defendant's patents;
2. For the costs incurred in bringing this action;
3. For such other relief the court deems just and equitable.

On Plaintiff's SECOND CLAIM FOR REFLIEF:

1. For judgment against Defendant for monetary damages in an amount to be proven at Trial not less than \$100,000, plus interest as permitted by law;
2. For the costs incurred in bringing this action;
3. For such other relief the court deems just and equitable.

On Plaintiff's THIRD CLAIM FOR REFLIEF:

1. Entering a preliminary and permanent injunction enjoining Defendant from:
 - (a) Contacting the factory that produces Plaintiff's products for the purpose of halting such production;
 - (b) Falsely claiming that Plaintiff is infringing Defendant's patents and making such false claim known to Plaintiff's industry in an effort to harm Plaintiff's reputation;
 - (c) Contacting retailers with whom Plaintiff has contracts to deliver certain products for the purpose of interfering with said contracts;
 - (d) Such other relief as the court deems just and equitable.
2. For the costs incurred in bringing this action;

3. For such other relief the court deems just and equitable.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff hereby demands a trial by jury of all issues so triable that are raised herein or which hereinafter may be raised in this action.

DATED: March 29, 2022

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