

1 Robert W. Payne, Esq.
2 PAYNE IP LAW
3 111 N. Market Street, Suite 300
4 San Jose, CA 95113
5 Phone (408) 981-4293
6 Email payne@bobpayne.com

7 UNITED STATES DISTRICT COURT
8
9 NORTHERN DISTRICT OF CALIFORNIA

10 BRYAN K. HALSEY, an individual,
11
12 Plaintiff,

Case No.:

13 vs.

COMPLAINT RE PATENT
INFRINGEMENT

14 NEXT LEVEL RACING SIMULATIONS PTY
15 LTD,
16
17 Defendant

18 Plaintiff BRYAN K. HALSEY brings this action for patent infringement against
19 Defendant NEXT LEVEL RACING SIMULATIONS PTY LTD (hereafter, “Defendant” or
20 “NEXT LEVEL RACING”), and alleges as follows:

21 **THE PARTIES**

22 1. Plaintiff is an individual, residing in the State of Arizona, and an inventor of the
23 subject patent.

24 2. Upon information and belief, Defendant NEXT LEVEL RACING is a corporation
25 organized and existing under the laws of the State of Australian state of Queensland, having a
26 regular and established place of business at Southport, Queensland, Australia.

27 **JURISDICTION AND VENUE**

28 3. This action arises under the patent laws of the United States, Title 35 of the United
States Code. This Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331

1 and 1338(a).

2 4. Personal jurisdiction exists generally over NEXT LEVEL RACING because it has
3 sufficient minimum contacts with the forum as a result of business conducted within the State
4 and, particularly, within this District. Personal jurisdiction also exists specifically over NEXT
5 LEVEL RACING because, on information and belief, certain of the infringing acts of NEXT
6 LEVEL RACING complained of herein occurred, at least in part, within the State and within this
7 District.
8

9 5. Venue is proper in this Court under 28 U.S.C. §§ 1391(c)(3).
10

11 **THE PATENTS-IN-SUIT**

12 6. On August 5, 2014, U.S. Patent No. 8,794,698 (“the ’698 Patent”) was duly and legally
13 issued, naming Plaintiff as inventor. A copy of the ’698 Patent is attached hereto as Exhibit A.
14 The ’698 Patent discloses a foldable, deployable chair for video game controller presentations.
15

16 7. Plaintiff is the owner of all right, title, and interest in and to the ’698 Patent, and has
17 rights to sue for infringement of the ’698 Patent, and to collect for past, present, and future
18 damages, including against Defendant.

19 **COUNT I INFRINGEMENT OF THE ’698 PATENT**

20 8. Plaintiff incorporates by reference Paragraphs 1 through 7 in their entirety as if fully
21 set forth herein.
22

23 9. Without license or authority, Defendant NEXT LEVEL RACING has, on information
24 and belief, used, sold and offered to sell within the United States, and has imported into the
25 United States, products embodying and designed to use the inventions claimed in the ’698 Patent
26 (the “Accused Products”). The products include at least those marketed under the name F-GT
27
28

1 Lite. Additional products which may infringe are the GT Lite and F-GT Lite IRacing products.
2 The F-GT Lite Accused Product is shown in Exhibit B.

3 10. In doing so, Defendant NEXT LEVEL RACING has infringed, and continues to
4 infringe, the '698 Patent.

5
6 11. On information and belief, Defendant NEXT LEVEL RACING has known of
7 the '698 Patent and Plaintiff's claims of infringement since at least on or about February 5, 2022.
8 On or about January 28, 2022, NEXT LEVEL RACING was sent with a letter advising of its
9 infringement of the '698 Patent by reason of its Accused Products.

10
11 12. Defendant NEXT LEVEL RACING has directly and indirectly infringed and
12 continues to directly and indirectly infringe at least claim 1 of the '698 Patent by using its
13 Accused Products, and by actively and intentionally inducing the direct infringing use of those
14 products by its customers and others within the United States.

15
16 13. Use of the Accused Products infringes at least Claim 1 of the '698 Patent. The
17 Accused Products are foldable, deployable chairs for video game controller presentation,
18 comprising a folding frame with a chair seat and armrest straps with back and forward ends. The
19 Accused Products, as described in Claim 1, on information and belief have a support surface
20 extending from the forward end of one armrest, which extensions have an L-shaped
21 configuration and extending outwardly from the armrest, where the support surface pivots to one
22 of the frame extensions at one end, the extensions being configured to be raised and rotated
23 about a pivot at the frame extension at one end, wherein the pivot is provided by a leg of the L-
24 shaped configuration. The products furthermore have a modular hand controller interface
25 attached to the support surface for communication with video game players.
26
27
28

1 14. NEXT LEVEL RACING has instructed and encouraged its customers and others, by
2 means of, on information and belief, user guides and other promotional and instructional
3 literature, among other things, to use the Accused Products in a manner which infringes the '698
4 Patent.
5

6 15. On information and belief, Defendant will continue to infringe the '698 Patent, unless
7 enjoined by this Court.

8 16. NEXT LEVEL RACING has been aware of the '698 Patent during the course of its
9 infringing activities since at least February 5, 2022, and, on information and belief, NEXT
10 LEVEL RACING knew earlier of the '698 Patent and/or was willfully blind to it. NEXT LEVEL
11 RACING's infringing actions described above were undertaken with the knowledge and the
12 intent that those actions, and those of its customers and others which they induced, would
13 infringe the '698 Patent.
14

15 17. NEXT LEVEL RACING's infringing activities have been objectively reckless and,
16 therefore, willful and in deliberate disregard of Plaintiff's rights in the '698 Patent.
17

18 18. As a consequence of the acts of infringement by Defendants, Plaintiff has been
19 damaged in an amount not yet determined, and Plaintiff will continue to be irreparably harmed
20 unless and until NEXT LEVEL RACING is enjoined by an order of this Court from committing
21 further acts of infringement.
22

23 **REQUESTED RELIEF**

24 WHEREFORE, Plaintiff respectfully requests that judgment be entered in their favor and
25 against Defendant NEXT LEVEL RACING, judgment providing:

- 26 1. That Defendant has infringed the '698 Patent;
27 2. That the infringement by Defendant has been and continues to be willful;
28

1 3. That Plaintiff be awarded their actual damages resulting from the acts of infringement
2 complained of herein including, without limitation, no less than a reasonable royalty pursuant to
3 35 U.S.C. §284, together with interest and costs, and that Plaintiff's damages be trebled pursuant
4 to 35 U.S.C. §284 in view of the willful and deliberate nature of the infringement;
5

6 4. That Defendant be permanently enjoined from engaging in the aforementioned acts
7 and from otherwise infringing the claims of the '698 Patent;

8 5. That this case be declared exceptional within the meaning of 35 U.S.C. §285 and that
9 Plaintiff be awarded his reasonable attorneys' fees incurred in connection with this case; and
10

11 6. For such other or further relief as this Court may deem just and proper under the
12 circumstances.

13 **JURY DEMAND**

14 Plaintiff demands a trial by jury of all issues so triable.

15 Dated: March 4, 2022

16 Respectfully submitted,

17 PAYNE IP LAW

18 By _____/s/_____
19 Robert W. Payne
20 Attorney for Plaintiff Bryan K. Halsey
21
22
23
24
25
26
27
28