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 COULTER VENTURES, LLC
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10 **IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

11 Coulter Ventures, LLC,
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 Plaintiff,
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 vs.
 14 Tru Grit Fitness LLC,
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 Defendant.
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CASE NO. '22CV1005 BAS BGS

**PLAINTIFF'S COMPLAINT FOR
 PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

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COMPLAINT

Plaintiff, Coulter Ventures, LLC, d/b/a Rogue Fitness (“Rogue”), for its complaint against Tru Grit Fitness LLC (“Tru Grit”), alleges as follows:

THE PARTIES

1. Rogue is a company organized and existing under the laws of the State of Ohio with a principal place of business at 545 East Fifth Avenue, Columbus, Ohio 43201.

2. On information and belief, Tru Grit is a limited liability company organized and existing under the laws of the State of Nevada with a business address at 2525 Birch St., Vista, California 92081. On information and belief, Tru Grit offers, sells, and distributes its products to customers and potential customers across the United States, including in California, through its website and big box retailers, including Best Buy, Target, and Walmart, as described below.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 100 et seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Tru Grit because, *inter alia*, Tru Grit is purposefully and intentionally availing itself of the privileges of doing business in the State of California, including in this District, at least because Tru Grit has a regular and established place of business in this District and has committed acts of patent infringement in the State of California, including in this District. Tru Grit transacts business and makes, uses, sells, and/or offers for sale products that infringe the asserted patent in the State of California and in this District. For example, Tru Grit operates a warehouse at 2525 Birch St., Vista, California 92081, from which customers, on information and belief, may pick up products that infringe the asserted patent. <https://trugrit-fitness.com/pages/warehouse-pickup>.

1 5. Venue is proper in this District pursuant to at least 28 U.S.C. §
2 1400(b) at least because Tru Grit has a regular and established place of business in
3 this District and has committed acts of patent infringement in this District.

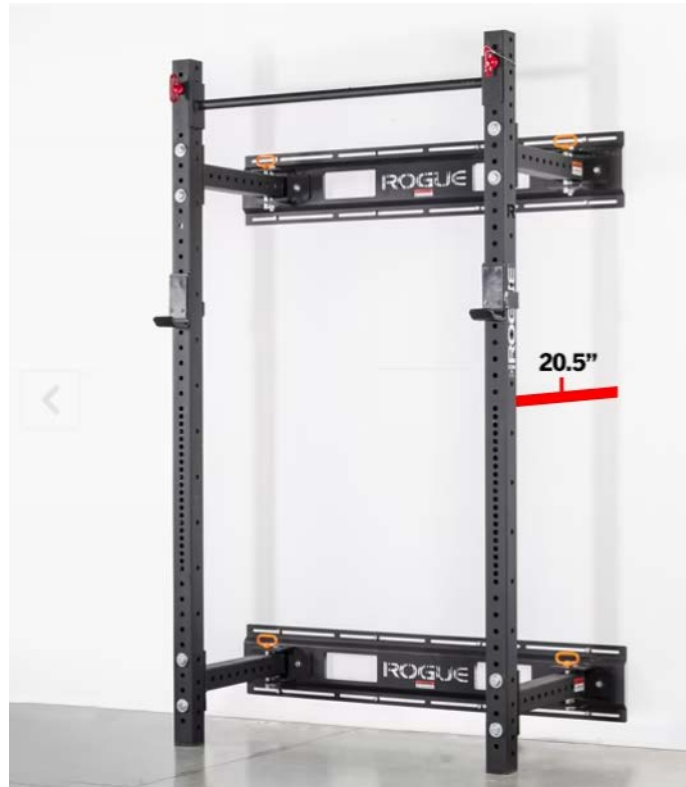
4 **General Allegations –**

5 **Rogue’s Intellectual Property and Fold Back Wall Mount Rack**

6 6. For well over a decade, Rogue has invested substantial time, skill, and
7 resources in creating, cultivating, and maintaining a reputation for the highest
8 quality strength and fitness products and services.

9 7. Included among Rogue’s many strength and fitness products, Rogue
10 creates, makes, and sells foldable, wall mounted racks, including the Rogue R-3W
11 Fold Back Wall Mount Rack.

12 **Illustration 1:**
13 **Exemplary Image of Rogue’s Patented Fold Back Wall Mount Rack from**
[14 https://www.roguefitness.com/rogue-r-3w-fold-back-wall-mount-rack](https://www.roguefitness.com/rogue-r-3w-fold-back-wall-mount-rack)



27 8. To protect its investments and the invaluable goodwill Rogue has
28 earned through years of effort, Rogue has acquired various intellectual property

1 rights. Such rights include Rogue’s patents directed to its technologies in
2 connection with the development, manufacture, and sale of high-quality strength
3 and fitness products, including foldable wall mounted racks.

4 9. For example, Rogue’s patent rights include U.S. Utility Patent No.
5 10,226,661 (“the ’661 Patent”).

6 10. The ’661 Patent is entitled “Weightlifting Rack Assembly and Wall
7 Mount Bracket for a Weightlifting Rack Assembly.” On March 12, 2019, the ’661
8 Patent was duly and legally issued by the U.S. Patent and Trademark Office to
9 Rogue. Rogue owns the entire right, title, and interest to the ’661 Patent. A copy of
10 the ’661 Patent is attached as Exhibit 1.

11 11. Rogue gives the public, including Tru Grit, notice that its fold back
12 wall mount rack is patented by marking its rack pursuant to 35 U.S.C § 287(a),
13 including by virtually marking at <https://www.roguefitness.com/patents>.

14 **General Allegations – Tru Grit’s Willful and Unlawful Activities**

15 12. Without Rogue’s authorization, Tru Grit has purposefully advertised,
16 marketed, promoted, offered for sale, sold, distributed, manufactured, and/or
17 imported, and continues to advertise, market, promote, offer for sale, sell,
18 distribute, manufacture, and/or import, products that infringe the ’661 Patent.

19 13. Specifically, Tru Grit’s “Foldable Wall-Mounted Power Rack” shown
20 below infringes Rogue’s ’661 Patent:

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Illustration 2:
Exemplary Image of Tru Grit’s Infringing Product Listing from
<https://trugrit-fitness.com/collections/racks/products/foldable-wall-mounted-power-rack>

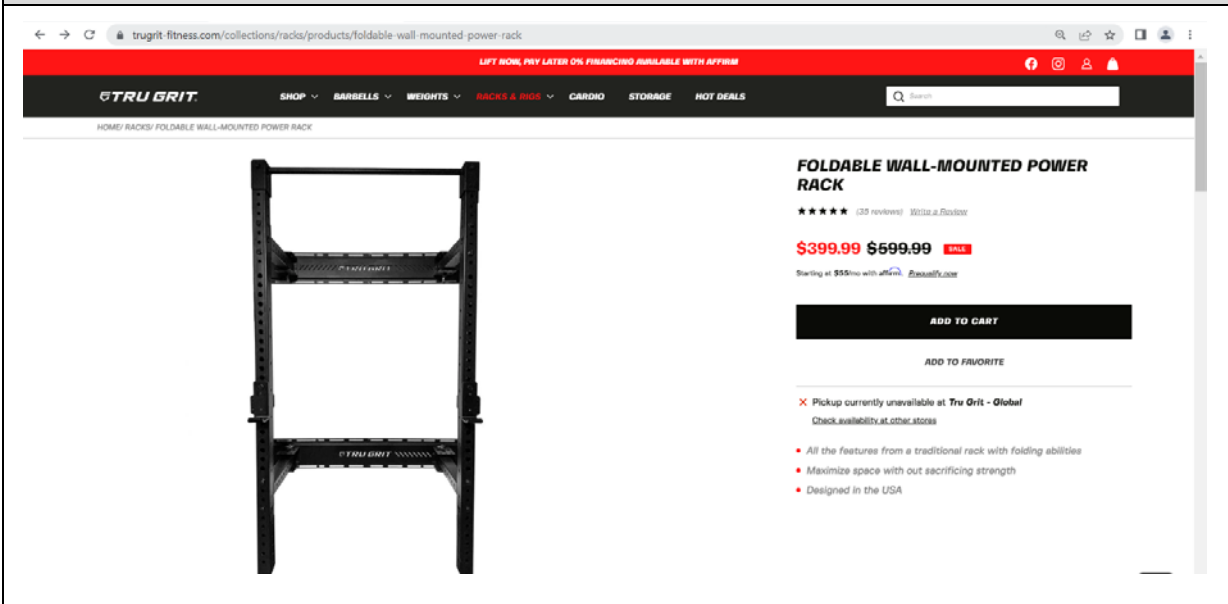
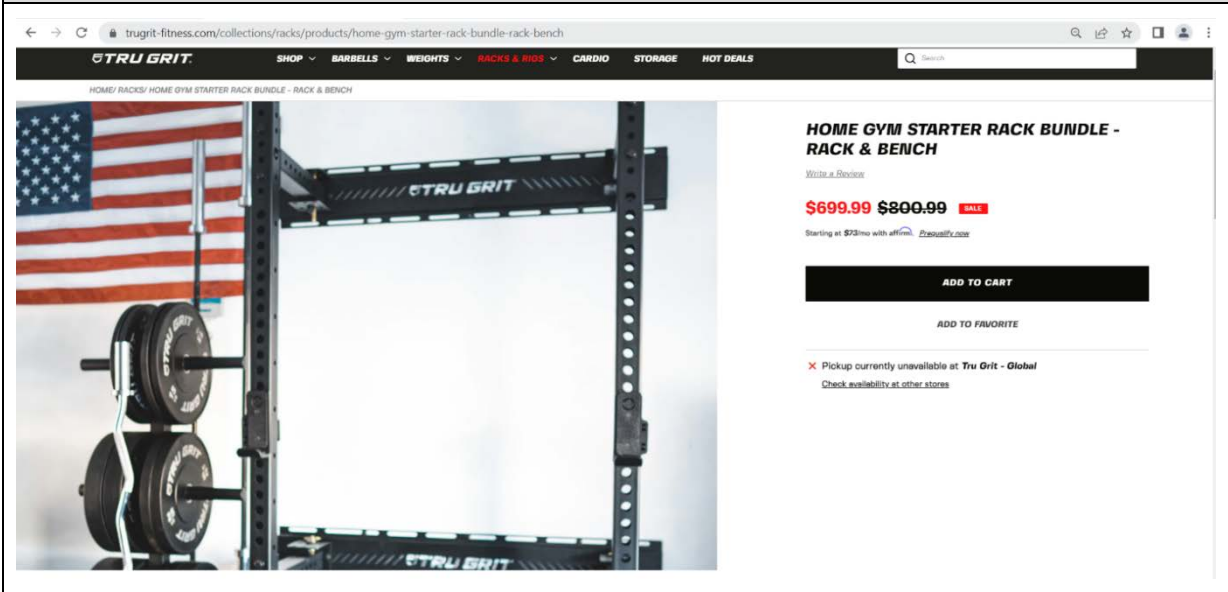

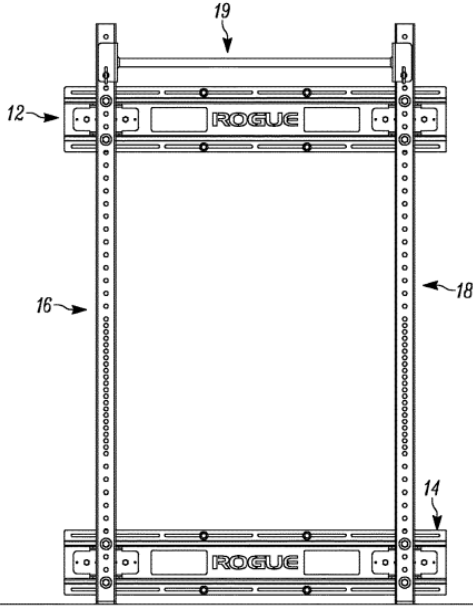

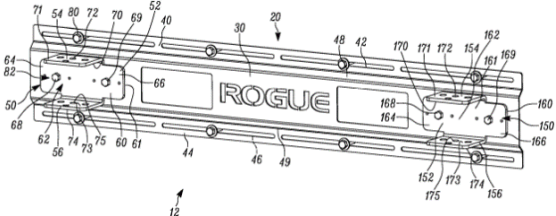


Illustration 3:
Exemplary Image of Tru Grit’s Infringing Product Listing from
<https://trugrit-fitness.com/collections/racks/products/home-gym-starter-rack-bundle-rack-bench>



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Illustration 4	
Example Images of Tru Grit's Infringing Product from https://trugrit-fitness.com/collections/racks/products/foldable-wall-mounted-power-rack	Example Excerpts of Figures from Rogue's '661 Patent
	
	

14. On January 3, 2022, Tru Grit was notified of its infringement of the '661 Patent. Despite receiving notice of infringement, Tru Grit has continued to offer for sale and/or sell its infringing product, as evidenced by the availability of the infringing product on its website, <https://trugrit-fitness.com/collections/racks/products/foldable-wall-mounted-power-rack>. Accordingly, Tru Grit's infringement of Rogue's '661 Patent has been and continues to be deliberate, intentional, and willful.

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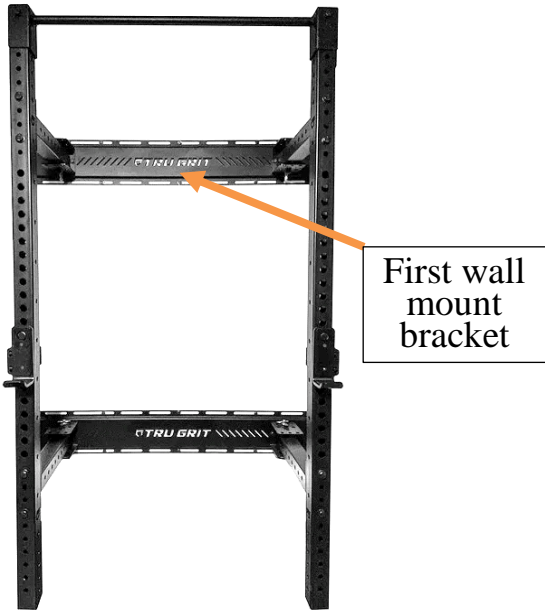
Count I:

Infringement of U.S. Patent No. 10,226,661 Under 35 U.S.C. § 271

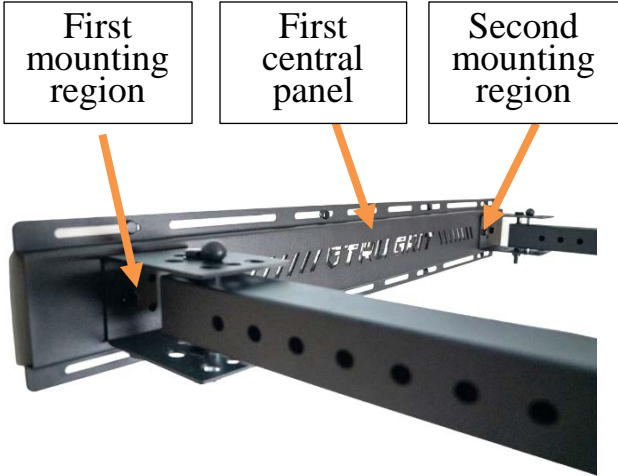
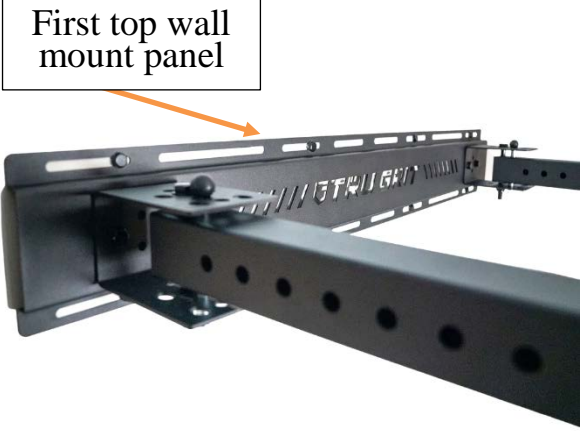
15. Rogue realleges and incorporates the allegations set forth in paragraphs 1 through 14 as though fully set forth herein.

16. Tru Grit has infringed and continues to infringe claims 1-16 of the '661 Patent either literally or under the doctrine of equivalents at least by using, selling, offering to sell, making, and/or importing into the United States Tru Grit's infringing product, which is covered by claims 1-16 of the '661 Patent.

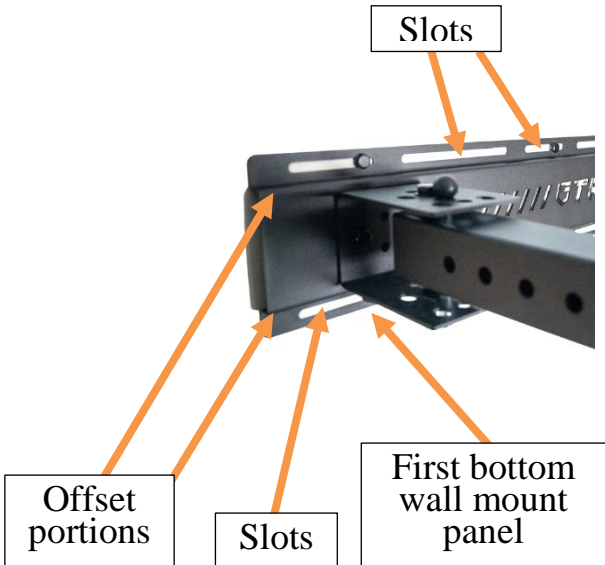
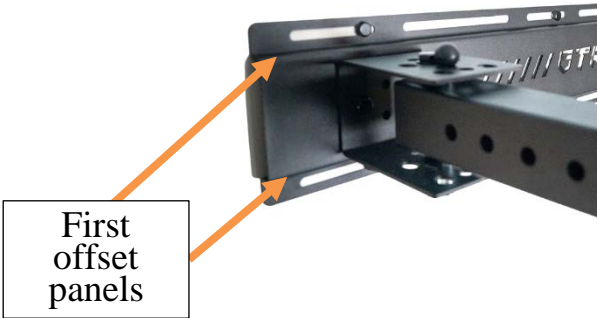
17. Tru Grit's infringing product satisfies each and every element of claims 1-8 of the '661 Patent, either literally or under the doctrine of equivalents, as shown in the chart below:

'661 Patent Claim Language	Tru Grit's Infringing Product
<p>1. A weightlifting assembly, comprising: a first wall mount bracket configured for mounting to a wall surface, comprising:</p>	

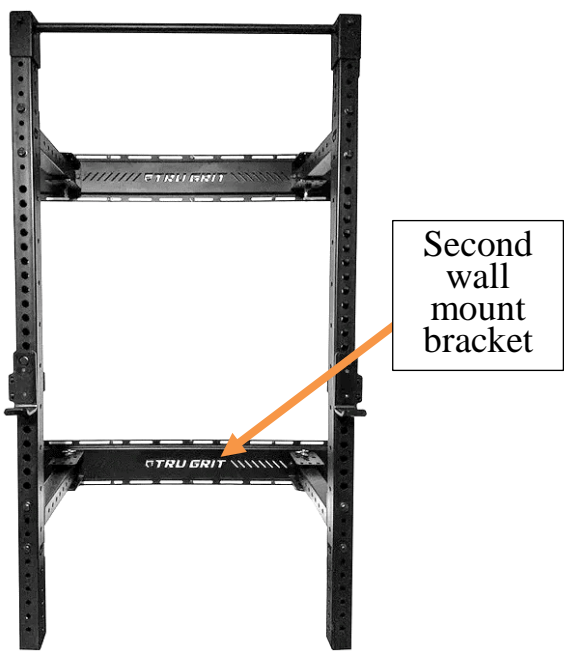
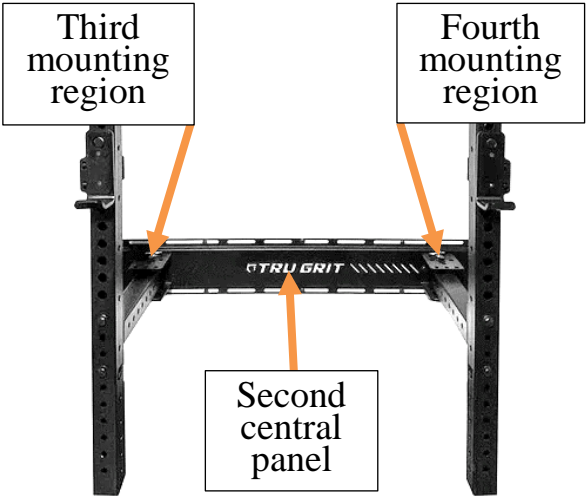
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'661 Patent Claim Language	Tru Grit's Infringing Product
<p>a first central panel having an inner surface configured to face the wall surface and an outer surface opposite the inner surface, the first central panel having a first mounting region and a second mounting region spaced from each other along the first central panel;</p>	 <p>The diagram shows a perspective view of a metal rack component. Three callout boxes with arrows point to specific parts: 'First mounting region' points to a bracket on the left, 'First central panel' points to the main horizontal bar, and 'Second mounting region' points to a bracket on the right. The word 'TRUGRIT' is embossed on the central panel.</p>
<p>a first top wall mount panel located above the first central panel and configured to overlie the wall surface;</p>	 <p>The diagram shows the same rack component as above, but with a callout box labeled 'First top wall mount panel' pointing to a thin metal strip mounted above the main horizontal bar.</p>

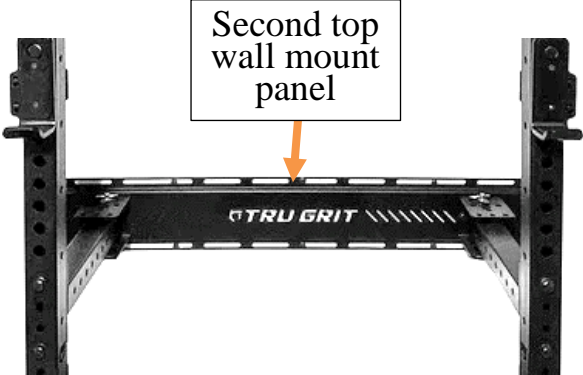
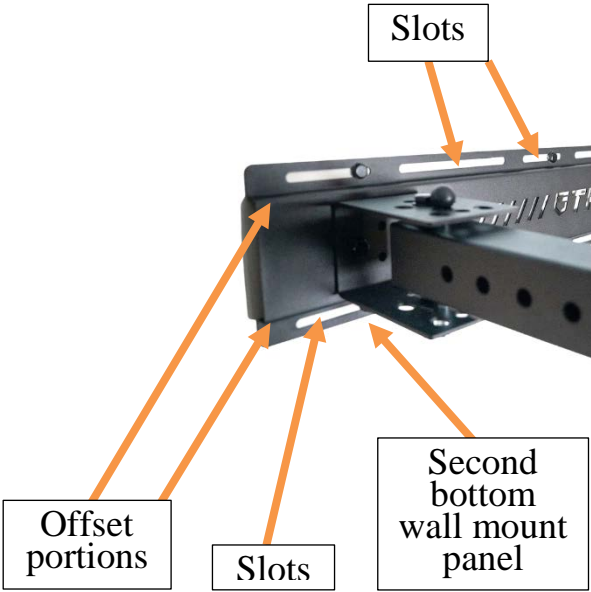
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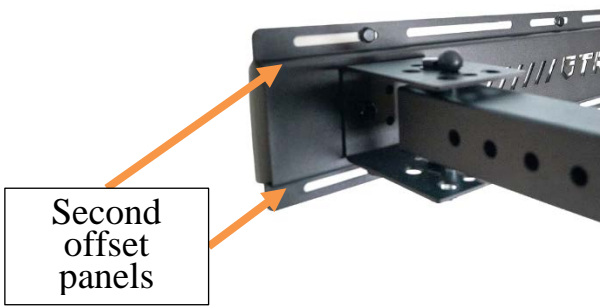
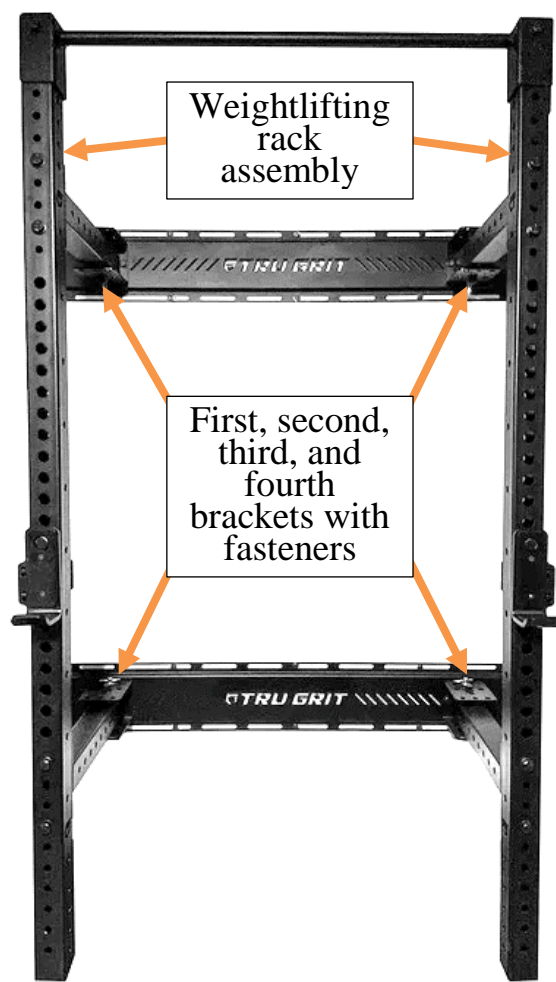
'661 Patent Claim Language	Tru Grit's Infringing Product
<p>a first bottom wall mount panel located below the first central panel and configured to overlie the wall surface, wherein the first top and bottom wall mount panels are offset from the first central panel in a first direction perpendicular to the outer surface and the inner surface of the first central panel, wherein the first top wall mount panel and the first bottom wall mount panel have a plurality of first slots that are respectively elongated along a length of each of the first top and bottom wall mount panels and are respectively arranged sequentially along the lengths of the first top and bottom wall mount panels, wherein the plurality of first slots are configured to receive first wall mount fasteners therethrough to couple the first wall mount bracket to the wall surface; and</p>	 <p>The diagram shows a perspective view of a metal wall mount bracket assembly. Three callout boxes with orange arrows point to specific features: 'Offset portions' points to the top and bottom flanges of the bracket; 'Slots' points to elongated rectangular openings on the top and bottom flanges; and 'First bottom wall mount panel' points to a horizontal metal plate with four circular holes, which is positioned below the main bracket assembly.</p>
<p>first offset panels respectively extending between the first central panel and the first top wall mount panel and between the first central panel and the first bottom wall mount panel, the first offset panels being respectively angled to each of the first central panel and the first top and bottom wall mount panels;</p>	 <p>This diagram is a closer view of the bracket assembly, focusing on the 'First offset panels'. A callout box with an orange arrow points to the angled metal plates that connect the top and bottom flanges of the bracket to the central mounting surface.</p>

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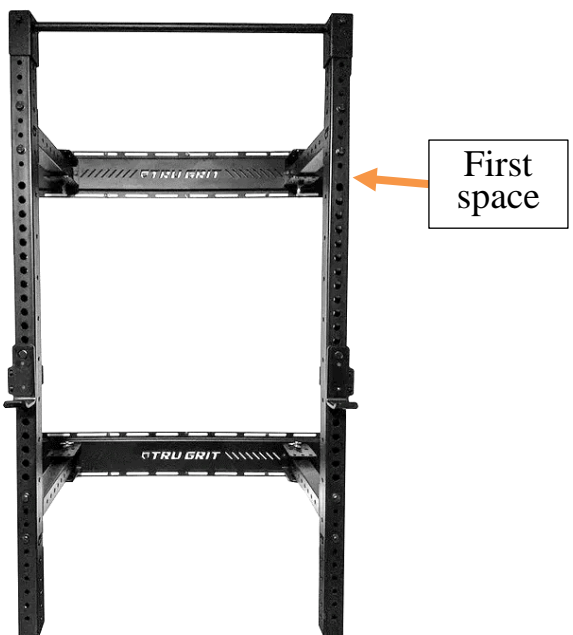
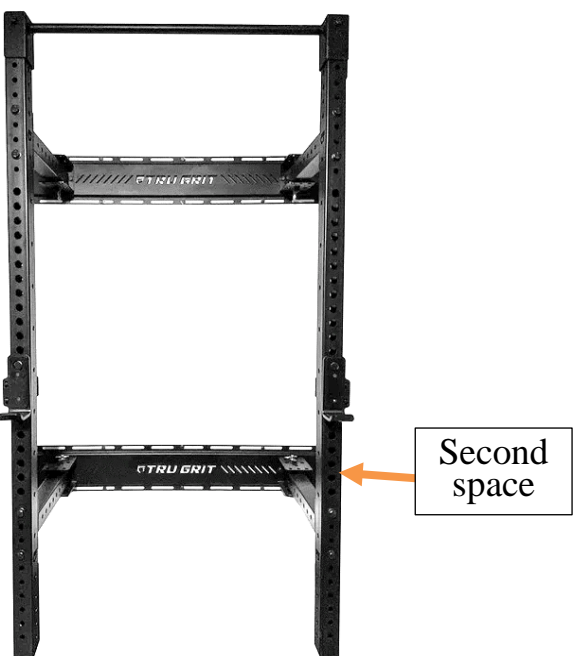
'661 Patent Claim Language	Tru Grit's Infringing Product
<p>a second wall mount bracket configured for mounting to the wall surface at a location below the first wall mount bracket and spaced from the first wall mount bracket, comprising:</p>	 <p>The diagram shows a black metal frame with two vertical posts and two horizontal bars. The top bar is labeled 'TRU GRIT'. The bottom bar is also labeled 'TRU GRIT'. An orange arrow points from a box labeled 'Second wall mount bracket' to the bottom bar.</p>
<p>a second central panel having an inner surface configured to face the wall surface and an outer surface opposite the inner surface, the second central panel having a third mounting region and a fourth mounting region spaced from each other along the second central panel;</p>	 <p>The diagram shows a close-up of the bottom bar of the frame. It is labeled 'TRU GRIT'. Two orange arrows point from boxes labeled 'Third mounting region' and 'Fourth mounting region' to the bar. A third orange arrow points from a box labeled 'Second central panel' to the bar.</p>

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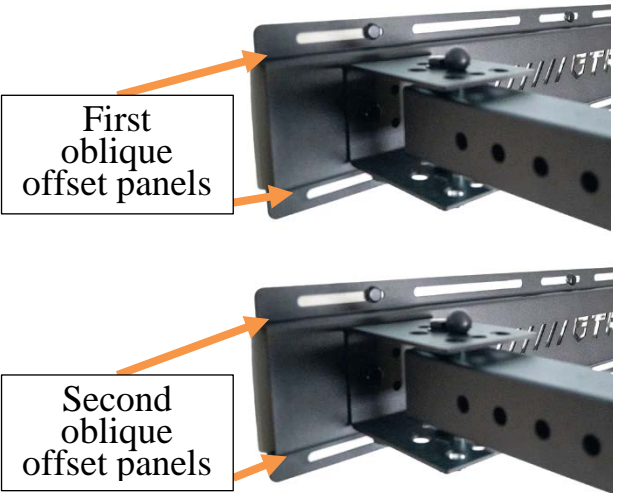
'661 Patent Claim Language	Tru Grit's Infringing Product
<p>a second top wall mount panel located above the second central panel and configured to overlies the wall surface;</p>	
<p>a second bottom wall mount panel located below the second central panel and configured to overlies the wall surface, wherein the second top and bottom wall mount panels are offset from the second central panel in the first direction, wherein the second top wall mount panel and the second bottom wall mount panel have a plurality of second slots that are respectively elongated along a length of each of the second top and bottom wall mount panels and are respectively arranged sequentially along the lengths of the second top and bottom wall mount panels, wherein the plurality of second slots are configured to receive additional wall mount fasteners therethrough to couple the second wall mount bracket to the wall surface; and</p>	

'661 Patent Claim Language	Tru Grit's Infringing Product
<p>1 second offset panels respectively 2 extending between the second 3 central panel and the second top wall 4 mount panel and between the second 5 central panel and the second bottom 6 wall mount panel, the second offset 7 panels being respectively angled to 8 each of the second central panel and the second top and bottom wall mount panels; and</p>	
<p>9 a weightlifting rack assembly 10 connected to the first wall mount 11 bracket and the second wall mount 12 bracket, the weightlifting rack 13 assembly comprising a first bracket 14 connected to the first central panel 15 of the first wall mount bracket at the 16 first mounting region by a first 17 fastener, a second bracket connected 18 to the first central panel of the first 19 wall mount bracket at the second 20 mounting region by a second 21 fastener, a third bracket connected to 22 the second central panel of the 23 second wall mount bracket at the 24 third mounting region by a third 25 fastener, and a fourth bracket 26 connected to the second central 27 panel of the second wall mount 28 bracket at the fourth mounting region by a fourth fastener,</p>	

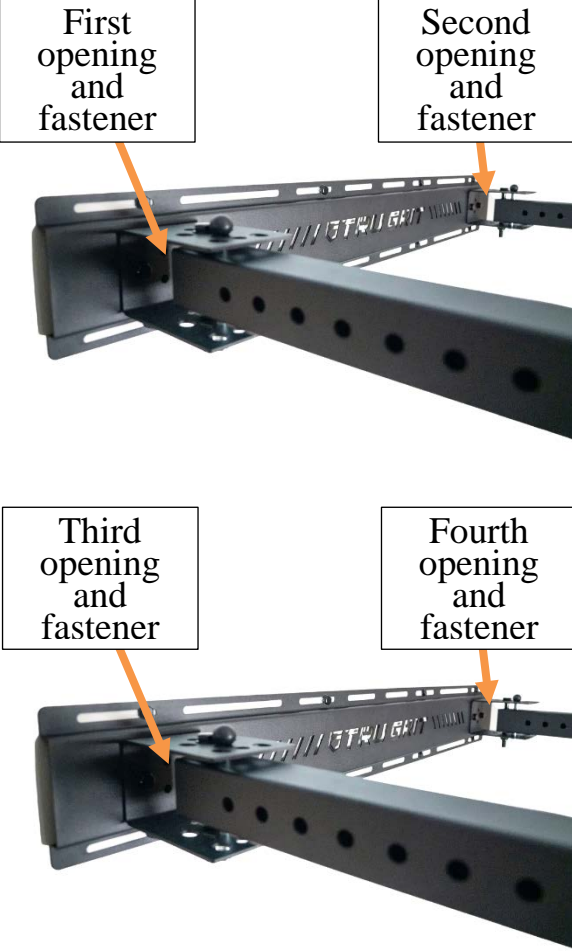
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'661 Patent Claim Language	Tru Grit's Infringing Product
<p>wherein the first top and bottom wall mount panels being offset from the first central panel is configured to create a first space between the inner surface of the first central panel and the wall surface, to provide clearance for the first and second fasteners, and</p>	 <p>The diagram shows a side view of a black metal shelving unit. It consists of two vertical side rails connected by two horizontal crossbars. The top crossbar is positioned higher than the bottom crossbar. An orange arrow points from a box labeled 'First space' to the gap between the inner surface of the top crossbar and the vertical side rail.</p>
<p>wherein the second top and bottom wall mount panels being offset from the second central panel is configured to create a second space between the inner surface of the second central panel and the wall surface, to provide clearance for the third and fourth fasteners.</p>	 <p>This diagram is identical to the one above, showing a side view of the same shelving unit. An orange arrow points from a box labeled 'Second space' to the gap between the inner surface of the bottom crossbar and the vertical side rail.</p>

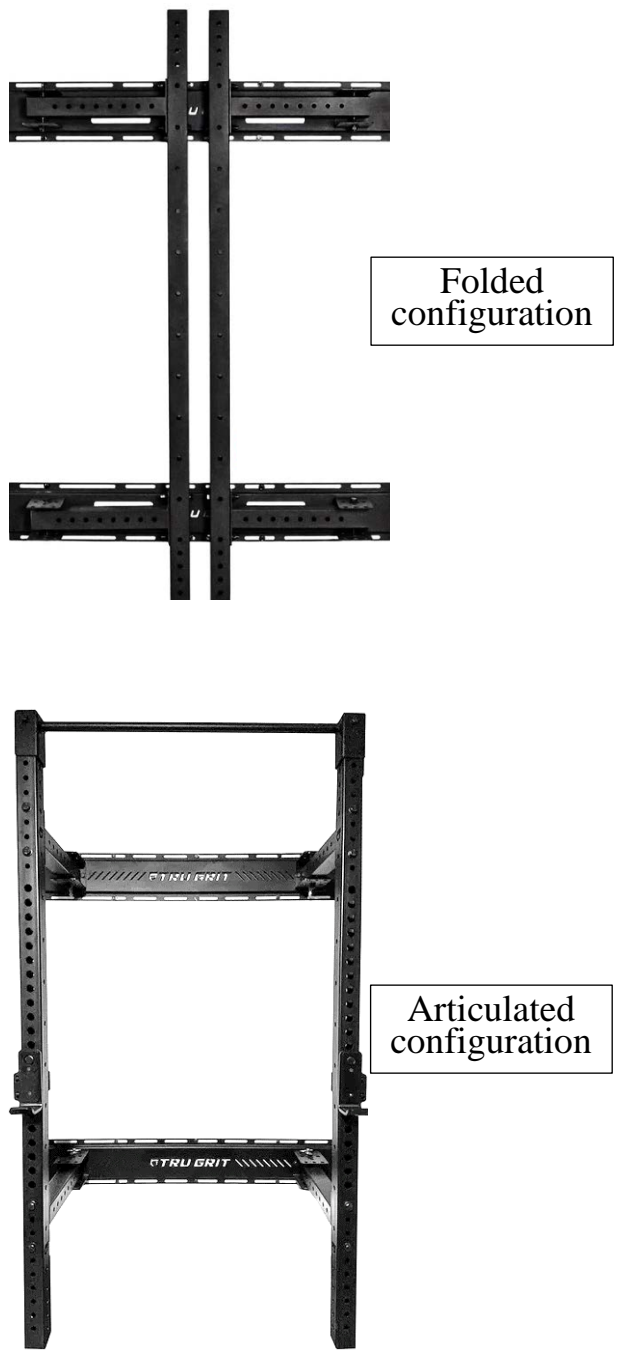
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'661 Patent Claim Language	Tru Grit's Infringing Product
<p>2. The weightlifting assembly of claim 1, wherein the first offset panels are respectively oblique to the first central panel and the first top and bottom wall mount panels, and wherein the second offset panels are respectively oblique to the second central panel and the second top and bottom wall mount panels.</p>	 <p>First oblique offset panels</p> <p>Second oblique offset panels</p>

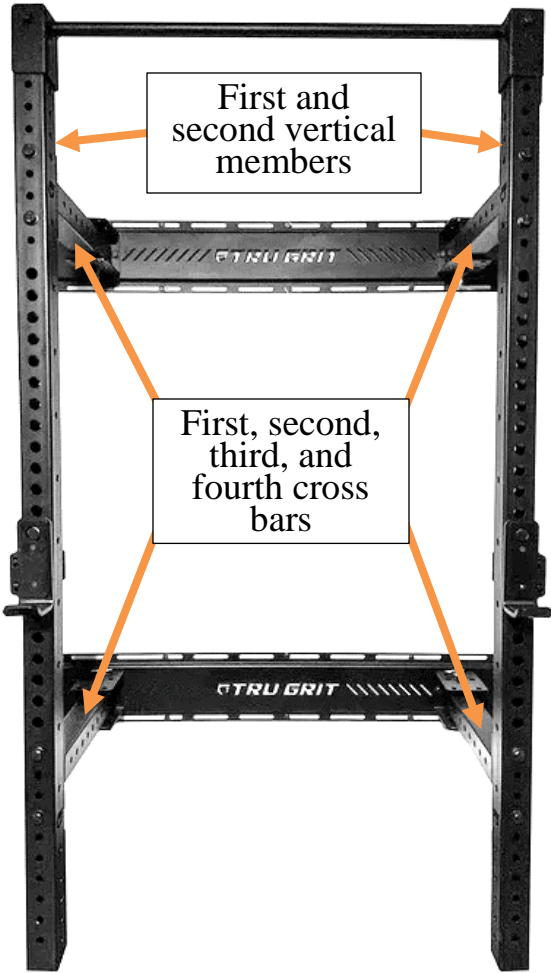
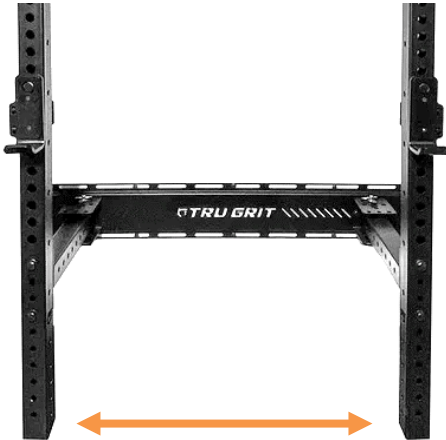
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'661 Patent Claim Language	Tru Grit's Infringing Product
<p>3. The weightlifting assembly of claim 1, wherein the first mounting region comprises a first opening in the first central panel receiving the first fastener, the second mounting region comprises a second opening in the first central panel receiving the second fastener, the third mounting region comprises a third opening in the second central panel receiving the third fastener, and the fourth mounting region comprises a fourth opening in the second central panel receiving the fourth fastener.</p>	


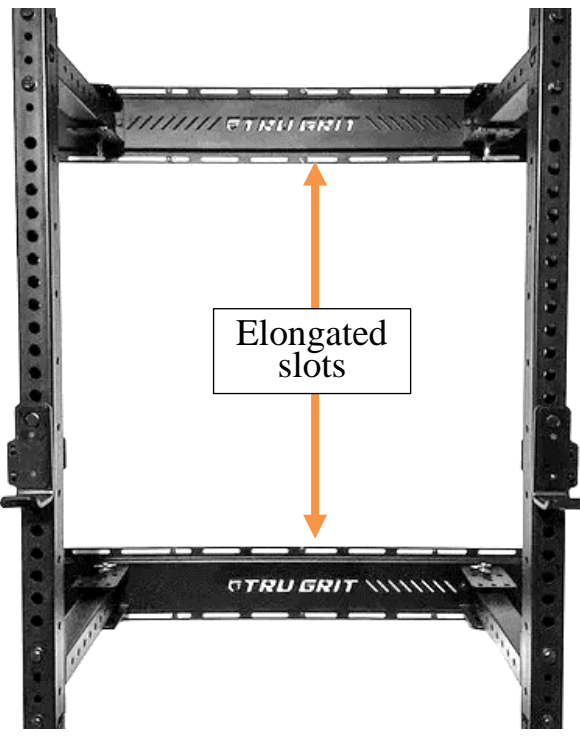
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'661 Patent Claim Language	Tru Grit's Infringing Product
<p>4. The weightlifting assembly of claim 1, wherein each of the first side rack assembly and the second side rack assembly is moveable by pivoting between a folded configuration adjacent to the wall surface and an articulated configuration distal from the wall surface.</p>	 <div data-bbox="1250 535 1494 619" style="border: 1px solid black; padding: 5px; display: inline-block;">Folded configuration</div> <div data-bbox="1250 1260 1494 1344" style="border: 1px solid black; padding: 5px; display: inline-block;">Articulated configuration</div>

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'661 Patent Claim Language	Tru Grit's Infringing Product
<p>5. The weightlifting assembly of claim 1, wherein the weightlifting rack assembly further comprises a plurality of frame members including a first vertical member and a second vertical member spaced from each other, a first cross bar connecting the first bracket to the first vertical member, a second cross bar connecting the second bracket to the second vertical member, a third cross bar connecting the third bracket to the first vertical member, and a fourth cross bar connecting the fourth bracket to the second vertical member.</p>	
<p>6. The weightlifting assembly of claim 5, wherein the first and second vertical members are configured to engage a ground surface that junctures with the wall surface.</p>	

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'661 Patent Claim Language	Tru Grit's Infringing Product
<p>7. The weightlifting assembly of claim 5, wherein the plurality of frame members further comprises a cross member connecting the first vertical member to the second vertical member.</p>	
<p>8. The weightlifting assembly of claim 1, wherein the plurality of first slots are elongated along the length of each of the first top and bottom wall mount panels, and the plurality of second slots are elongated along the length of each of the second top and bottom wall mount panels.</p>	

1 18. Installation of Tru Grit’s “Foldable Wall-Mounted Power Rack” also
2 infringes claims 9-16 of the ’661 Patent, which are directed to a method of
3 mounting.

4 19. Tru Grit has actively induced others to infringe at least claims 9-16 of
5 the ’661 Patent by encouraging infringement, knowing that the acts induced by Tru
6 Grit constituted patent infringement, and its encouraging acts actually resulted in
7 direct patent infringement. See 35 U.S.C. § 271(b).

8 20. Tru Grit had knowledge of the ’661 Patent no later than January 3,
9 2022.

10 21. On information and belief, Tru Grit encouraged its customers to
11 infringe at least claims 9-16 of the ’661 Patent by selling the “Foldable Wall-
12 Mounted Power Rack” and providing instructions for assembly, installation, and
13 use, knowing that customers that followed Tru Grit’s instructions would infringe at
14 least claims 9-16 of the ’661 Patent.

15 22. Tru Grit’s acts of infringement have been without express or implied
16 license by Rogue, are in violation of Rogue’s rights, and will continue unless
17 enjoined by this Court.

18 23. Tru Grit’s infringement of the ’661 Patent has been, and continues to
19 be, deliberate, intentional, and willful.

20 24. On information and belief, this is an exceptional case in view of Tru
21 Grit’s unlawful activities, including Tru Grit’s deliberate, intentional, and willful
22 infringement.

23 25. Rogue has been, is being, and will continue to be injured and has
24 suffered, is suffering, and will continue to suffer injury and damages for which it is
25 entitled to relief under at least 35 U.S.C. §§ 281, 284, and 285.

26 26. Tru Grit also has caused, is causing, and will continue to cause
27 irreparable harm to Rogue for which there is no adequate remedy at law and for
28 which Rogue is entitled to injunctive relief under at least 35 U.S.C. § 283.

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Demand for Jury Trial

Rogue hereby demands a jury trial on all issues so triable.

Relief Sought

WHEREFORE, Plaintiff respectfully prays for:

A. Judgment that Tru Grit has infringed the '661 Patent in violation of § 271 of Title 35 in the United States Code;

B. An injunction against further infringement of Rogue's '661 Patent by Tru Grit and each of Tru Grit's agents, employees, servants, attorneys, successors, and assigns, and all others in privity or acting in concert with any of them, pursuant to at least 35 U.S.C. § 283;

C. An Order directing Tru Grit to recall all infringing products sold and/or distributed, and to provide a full refund for all recalled infringing products;

D. An award of damages adequate to compensate Rogue for Tru Grit's patent infringement pursuant to 35 U.S.C. § 284 together with prejudgment interest and costs;

E. Enhanced damages under 35 U.S.C. § 284 for Tru Grit's willful infringement;

F. Reasonable attorney fees, pursuant at least to 35 U.S.C. § 285, because this is an exceptional case at least because of Tru Grit's willful infringement; and

G. Such other and further relief as this Court deems just and proper.

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DATED: July 11, 2022

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