

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

TEKNOR APEX COMPANY

v.

Case No.  
(Jury Trial Demanded)

ORBIT IRRIGATION PRODUCTS, LLC

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Teknor Apex Company (“Teknor” or “Plaintiff”) hereby complains and alleges the following claims for patent infringement against defendant Orbit Irrigation Products (“Orbit”), and alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action for patent infringement brought under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

2. Teknor is the owner of all right, title and interest in and to U.S. Patent Nos. 9,810,357 (“the ‘357 patent”) and 9,815,254 (“the ‘254 patent”) (collectively, the “Asserted Patents”), which are the basis for the claims of infringement asserted in this Complaint.

3. Orbit has infringed and continues to infringe, one or more claims of the Asserted Patents at least by making, having made, using, selling and/or offering for sale within the United States, and/or importing into the United States, products covered by certain claims of the Asserted Patents.

**THE PARTIES**

4. Teknor is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 505 Central Avenue, Pawtucket, RI 02861.

5. Teknor is a global company with several divisions including Teknor Color, Vinyl, Thermoplastic Elastomers, Engineering Thermoplastics, Chemicals and Garden Hose. See [www.teknorapex.com/divisions](http://www.teknorapex.com/divisions).

6. On information and belief, Orbit is a limited liability company organized and existing under the laws of the State of Utah with its principal place of business at 845 Overland St., North Salt Lake, UT 84054.

7. On information and belief, Orbit acquired Bond Manufacturing – Garden Business (“Bond”) in or around June 2020. Thereafter, in or around October 2021, Orbit was acquired by Husqvarna Group and forms a business unit within Husqvarna Group’s Gardena Division.

8. On information and belief, Orbit manufactures or has manufactured, markets, distributes and sells a variety of water irrigation products for residential and commercial markets, including but not limited to sprinklers, timers, sprinkler heads, hoses, nozzles, wands, and related parts and accessories therefor.

9. On information and belief, Orbit directly and/or indirectly imports, designs, manufactures, distributes, markets, sells, and/or offers to sell infringing products as described below, within the United States, including in the District of Rhode Island, and otherwise purposefully directs infringing activities to this District in connection with the marketing, sale and offering for sale of infringing hose products.

10. Teknor does not authorize, permit or otherwise consent to Orbit’s actions.

### **JURISDICTION AND VENUE**

11. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*

12. This Court has subject matter jurisdiction over the matters asserted herein pursuant to 35 U.S.C. § 281 and under 28 U.S.C. §§ 1331 (federal question), 28 U.S.C. § 1332 (diversity), and 1338 (a), because the action asserted herein arises under the laws of the United States and any Act of Congress pertaining to patents, and because there is complete diversity of citizenship between the Plaintiff and Orbit and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

13. This Court has personal jurisdiction over Orbit because Orbit has committed and continues to commit acts of infringement in violation of 35 U.S.C. §§ 271(a) and (b) and has purposefully and voluntarily placed infringing products, as described herein, into the stream of commerce with the knowledge, understanding, and expectation that such products are sold and offered for sale in the State of Rhode Island. These infringing products have been and continue to be sold in this District.

14. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391 (a), 1391 (b) (2), 1391 (b) (3), and 1400 (b) at least because (1) Orbit has committed and continues to commit acts of infringement in this District, (2) Orbit regularly conducts business in this District, (3) Orbit sells or offers for sale in this District products that infringe the Asserted Patents, and (4) Orbit is subject to personal jurisdiction in this District. In addition, venue is proper in this District because Teknor's principal place of business is in this District, Teknor has suffered harm in this District, and a substantial part of the events giving rise to Teknor's claims occurred in this District.

### **BACKGROUND FACTS**

#### *Teknor's History and Patented Technology*

15. Teknor is a global material science company that has been in business since 1924. Teknor manufactures and distributes a variety of chemical and other products, including, inter alia,

colorants, vinyls, thermoplastic elastomers, engineering thermoplastics, nylons, bioplastics and consumer products, such as garden hoses. Teknor also provides services to the chemical industry including chemical and coloring solutions, tolling and specialty compounding.

16. As a result of Teknor's world-class compounding capabilities, Teknor ventured into the creation of its own line of ground-breaking water, garden and industrial hoses, which Teknor has been manufacturing and selling since 1950. These products were the result of extensive market research and superior product development, all with the consumer experience in mind.

17. Teknor is one of the leading, if not the leading, manufacturers of water and garden hose products in the United States and has an exceptional reputation in the hose industry. Teknor's zero-G®, Neverkink®, Flexalloy®, and Apex® brands continue to set industry standards for quality. Teknor hose products are sold online and/or in store through The Home Depot, Lowe's, Meijer, Menards, ACE Hardware, and True Value, among many others.

18. In 2014, Teknor began research and development directed to a fabric jacketed hose in response to new lightweight, flexible fabric hoses coming into the hose market in 2013. Teknor's efforts resulted in a new garden hose product, the zero-G® fabric jacketed hose, which was commercialized in December 2015 and continues to be sold today.

19. The zero-G® hose is a commercial success and rapidly became one of Teknor's top selling hose products. zero-G® hoses are sold online and/or in store through Lowe's, ACE Hardware, Do-it-Best, Target, True Value, Blain's Farm & Fleet, and Meijer, among many others. Teknor sells a private label hose, i.e., the Rapid Flo® brand hose, through Costco Wholesale Corporation ("Costco"). Images of the zero-G® hose are shown below.



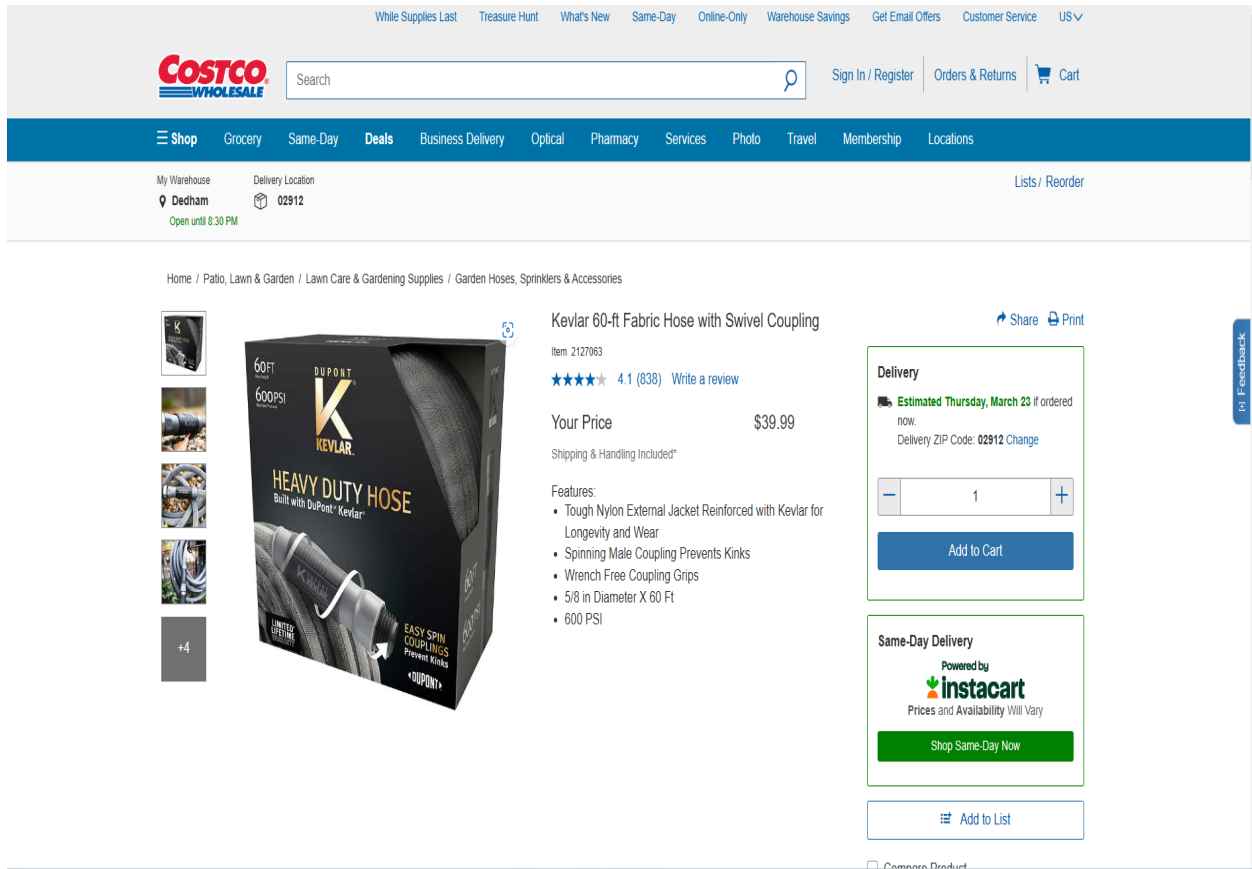
20. Teknor protected the innovative designs and cutting-edge technologies embodied in the zero-G® hose by securing a broad range of intellectual property rights, which include, in addition to the Asserted Patents, several other utility and design patents awarded in the United States and abroad (“the zero-G® Patents”). A comprehensive list of Teknor’s zero-G® Patents may be found at [www.apexhose.com/patents](http://www.apexhose.com/patents). Patents in the chain of the parent ‘254 patent are listed below, copies of which are attached to the Complaint as Exhibits 1-6. Teknor owns all right, title and interest in and to the zero-G ® Patents.

<u>Patent Number</u>	<u>Title</u>
U.S. 9,810,357	<b>Lightweight, High Flow Hose Assembly and Method of Manufacture</b>
U.S. 9,815,254	<b>Lightweight, High Flow Hose Assembly and Method of Manufacture</b>
U.S. 10,000,035	<b>Lightweight, High Flow Hose Assembly and Method of Manufacture</b>
U.S. 10,132,435	<b>Lightweight, High Flow Hose Assembly and Method of Manufacture</b>
U.S. 10,344,899	<b>Lightweight, High Flow Hose Assembly and Method of Manufacture</b>
U.S. 10,458,574	<b>Lightweight, High Flow Hose Assembly and Method of Manufacture</b>

*Acts Giving Rise to This Action – Orbit’s Infringing Products*

21. Teknor became aware of a Dupont™ Kevlar® fabric hose in 2020, when it featured a non-infringing sewn jacket construction. On or about February 21, 2023, Teknor became aware of a new hose product, the Dupont™ Kevlar® Heavy Duty Fabric Garden Hose featuring a welded jacket, which was manufactured by or on behalf of Orbit or and is distributed by Costco (“Dupont™ Kevlar® Hose”). The new Dupont™ Kevlar® Hose appears to be similar to Teknor’s zero-G® hose. Because Teknor’s patented welded (seam) construction provides more resistance to burst and improves performance factors, Orbit or its manufacturer apparently made a decision to replicate Teknor’s patented construction in the new Dupont™ Kevlar® Hose.

22. Teknor purchased the Dupont™ Kevlar® Hose directly from Costco in Dedham, MA. The hose is also available for shipment to a Rhode Island zip code from Costco as shown below. Photographs of packaging panels of the Dupont™ Kevlar® Hose are also shown below.



23. Evaluations of the Dupont™ Kevlar® Hose reveal that it has substantially similar, if not identical, features as that of Teknor’s zero-G® hose and is covered by certain claims of the Asserted Patents.

24. On February 23, 2023, counsel for Teknor contacted Orbit expressing Teknor's concerns that certain claims of Teknor's patents cover the Dupont™ Kevlar® Hose and advising Orbit that an existing agreement with Husqvarna, Orbit's parent, did not authorize sales of such products in the United States, Canada and Mexico. (Husqvarna had pursued Teknor for a license agreement to practice the inventions of the foreign counterpart zero-G® Patents, which was ultimately consummated in 2018.) In addition, Teknor advised that it had already lost sales due to Orbit's product and anticipated additional sales loss if Orbit did not take immediate action. (See Exhibit 7 to the Complaint). Immediate action was deemed necessary, because product is shipped to retailers, such as Costco, to accommodate a short seasonal consumer selling window. As a result, the majority of product would have shipped to retailers by March.

25. On February 24, 2023, Orbit's counsel responded, stating that Orbit will look into the issues and respond, "in due course." See Exhibit 7.

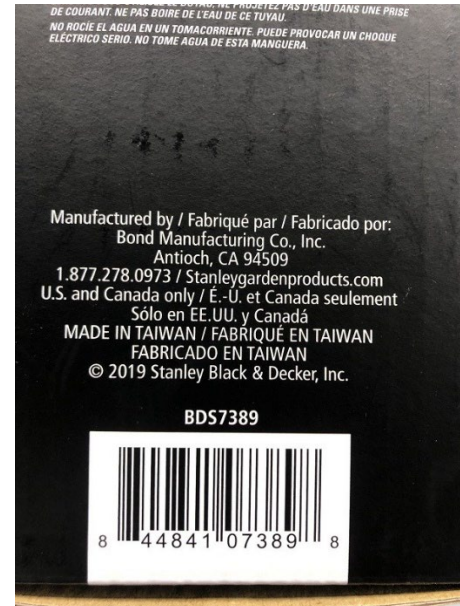
26. On February 24, 2023, Teknor's counsel advised that a response "in due course" was insufficient to address Teknor's immediate concerns. Teknor provided a list of the patents owned by Teknor relating to the zero-G® hose construction and assembly and methods related thereto, along with Teknor's conclusion that several claims of the patents were infringed. See Exhibit 7.

27. Orbit provided no further response to Teknor.

28. On or about February 24, 2023, Teknor became aware of an additional product, a Stanley® FatMax® Exojacket® Fabric Jacketed Hose ("FatMax® Exojacket® Hose"), manufactured by or on behalf of Bond, a company owned by Orbit, which also appears to have a welded jacket and is similar to Teknor's zero-G® hose.



29. Teknor purchased a FatMax® Exojacket® Hose directly from Orbit for shipment to Rhode Island shortly thereafter. Teknor received the hose on or around March 5, 2023, and confirmed the presence of the welded jacket. Photographs of the packaging panels for the FatMax® Exojacket® Hose are shown below.



30. Evaluations of the FatMax® Exojacket® Hose reveal that it has substantially similar, if not identical, features as that of Teknor’s zero-G® hose and is covered by certain claims of the Asserted Patents.

31. Rather than innovate and develop its own technology, Orbit or those on its behalf or at its direction chose to copy Teknor’s zero-G® hose product, the patented features of which are embodied in at least the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose.

32. Teknor has not licensed or otherwise authorized, permitted or consented to the use or practice of the inventions embodied by the Asserted Patents (or any other of Teknor’s patents relating to the zero-G® hose) in the United States, Canada or Mexico.

33. Orbit has not obtained permission from Teknor for itself or others to use or practice the inventions claimed in the Asserted Patents (or any other of the zero-G® Patents) in the United States, Canada or Mexico.

34. Despite being made aware of Teknor's patents and without authorization, Orbit continues to make, have made, use, sell or offer for sale in the United States and/or import into the United States hose products that fall within the scope of certain claims of the Asserted Patents, including at least the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose, all in violation of Teknor's rights in said patents.

35. The Dupont™ Kevlar® Hose is available online from Costco and the eBay and Mercari websites, and the FatMax® Exojacket® Hose is available online from Amazon and may be ordered through Do-It-Best. Both hoses are available for purchase by Rhode Island residents from these and other sources.

**COUNT I: INFRINGEMENT OF U.S. PATENT NO. 9,810,357**

36. Teknor incorporates by references and reasserts each and every allegation set forth in paragraphs 1-35 of this Complaint as if fully set forth herein.

37. Defendant has infringed, either literally or under the doctrine of equivalents, one of more claims of the '357 patent and continues to infringe in this District, by making, having made, using, offering for sale, and/or selling within the United States, and/or importing into the United States, without authority, products that practice one or more claims of the '357 patent, including but not limited to the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose (collectively, "the Accused Products"). Orbit is thus liable for direct infringement of the '357 patent pursuant to 35 U.S.C. § 271 (a). The Accused Products are non-limiting examples that were identified based on publicly available information obtained, and product purchases made, to date. Teknor reserves

the right to identify additional infringing products based on later acquired information or information obtained during discovery.

38. On information and belief, Orbit has also actively induced and encouraged the direct infringement of the ‘357 patent by Orbit’s manufacturers, distributors, resellers and retailers by encouraging them to make, use, sell, and or offer to sell within the United States, and/or to import into the United States one or more hose products that embody the inventions of the ‘357 patent. Orbit is therefore liable for indirect infringement of the ‘357 patent under 35 U.S.C. § 271 (b).

39. A representative claim chart detailing Orbit’s infringement of at least claim 1 of the ‘357 patent is set forth below, based on information available to Teknor to date. Teknor reserves the right to modify the descriptions below on the basis of information it obtains during discovery and to assert additional claims from Teknor’s Patents as more information is obtained.

<u>Claim 1 of the ‘357 Patent</u>	<u>Dupont™ Kevlar® Hose and FatMax® Exojacket® Hose</u>
<p>1. A hose assembly, comprising:</p> <p>an inner tube comprising a thermoplastic material,</p> <p>wherein the inner tube has a longitudinal length and a first circumference below a minimum expansion pressure,</p> <p>wherein the inner tube is expandable to a larger, second circumference upon application of fluid pressure on an inner surface of the inner tube at or above the minimum expansion pressure; and</p>	<p>Both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hoses are hose assemblies comprising inner and outer tubes, with a female coupler and male coupler as is typically found on hose products. The products are “hose assemblies” as the term is understood.</p> <p>The inner tubes of both hose assemblies comprise a thermoplastic material, including but not limited to polyvinyl chloride (PVC).</p> <p>The inner tube of both hose assemblies is longitudinal in length and has a first circumference that is below a minimum expansion pressure.</p> <p>Upon application of fluid pressure on an inner surface of the inner tube at or above the minimum expansion pressure, i.e., transferring water through the hose, the inner tube expands to a larger, second circumference in use. Both hoses radially expand and fill the outer tube (sheath) when pressure is applied.</p>

<u>Claim 1 of the ‘357 Patent</u>	<u>Dupont™ Kevlar® Hose and FatMax® Exojacket® Hose</u>
<p>an outer tube covering the inner tube, the outer tube having a longitudinal length and a weld seam along the longitudinal length of the outer tube, the weld seam comprising melted fabric,</p> <p>wherein the hose assembly further includes a male coupler connected to first ends of the inner tube and the outer tube and a female coupler connected to second ends of the inner tube and the outer tube, and</p> <p>wherein the outer tube is not connected or attached to the inner tube between the male coupler and the female coupler.</p>	<p>Both hose assemblies have an outer tube covering the inner tube, the outer tube has a longitudinal length and a weld seam along the length of the outer tube, the weld seam comprising melted fabric. Both hose assemblies’ outer tubes include a woven fabric, either polyester or nylon.</p> <p>Both hose assemblies include a male coupler connected to first ends of the inner tube and the outer tube and a female coupler connected to second ends of the inner tube and outer tube.</p> <p>Upon evaluation and deconstructing both hose assemblies, the outer tube is not connected or attached to the inner tube between the male coupler and the female coupler.</p>

40. In addition to claim 1 of the ‘357 patent, the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose infringe claim 17 of the ‘357 patent, which recites the same or substantially the same elements as claim 1 of the ‘357 patent, .

41. Both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose have an “outer tube [having] an inner surface with a circumference and the second circumference of the inner tube is less than or equal to the outer tube inner surface circumference.” (Claim 2 of the ‘357 patent). By implication, the outer tube covers the inner tube, so the outer tube’s inner surface circumference would necessarily be equal to or greater than that of the second circumference of the inner tube, i.e., when fluid transfer occurs. Thus, the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose infringe claim 2.

42. Both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose have an “outer tube [having] a first end and a second end and two sides between ends, wherein the two sides are bonded at the weld seam, and wherein the outer tube has a fixed longitudinal length.”

(Claim 3 of the '357 patent). Both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose have a weld seam. Neither the Dupont™ Kevlar® Hose nor the FatMax® Exojacket® Hose are longitudinally expandable. As such, the outer tube would have a fixed longitudinal length. Thus, the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose infringe claim 3. Images showing the weld seam of the Dupont™ Kevlar® Hose (left) (from [Kevlar 60-ft Fabric Hose with Swivel Coupling | Costco](#)) and FatMax® Exojacket® Hose (right) ([Stanley Garden BDS7922 FATMAX 50ft Exojacket Hose, Gray \(amazon.com\)](#)) are shown below:



43. In addition, on comparing the Dupont™ Kevlar® Hose with Teknor’s zero-G® hose, both fabric interfaces were observed to be the same under magnification, with the textile fibers of both samples showing shrinkage, which is common when fibers are exposed to high temperatures as are encountered with weld seams.

44. Upon analysis, the inner tube of the Dupont™ Kevlar® Hose comprises polyvinyl chloride (PVC). Claim 4 is thus infringed by at least the Dupont™ Kevlar® Hose. Teknor reserves the right to assert this claim against the FatMax® Exojacket® Hose when analysis is completed.

45. Upon analysis, claim 5's limitation of a weld seam having a weld width of 9.5 mm +/- 3.0 is found in the FatMax® Exojacket® Hose (9.5 mm (3/8 inches) wide) and its substantial equivalent is found in the Dupont™ Kevlar® Hose (very slightly over the claimed upper limit of 12.5 mm maximum). Both hoses have a weld thickness that is at least 50% greater than a thickness of the fabric of the outer tube has been in a non-weld seam section. Thus, the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose infringe claim 5.

46. Claims 18 and 19, which are dependent on claim 17, recite the same elements as claims 3, 4 and 5 of the '357 patent. Thus, the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose infringe claims 18 and 19.

47. Unless enjoined by this Court, Orbit will continue to infringe the '357 patent and Teknor will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Teknor is entitled to preliminary and permanent injunctive relief against such infringement under 35 U.S.C. § 283.

48. As a result of Orbit's infringement of the '357 patent under 35 U.S.C. §§ 271 (a) and 271 (b), Teknor has incurred and continues to incur actual damages in the form of lost sales and has been and continues to be irreparably injured in its business and its intellectual property rights and is entitled to recover damages for such injuries pursuant to 35 U.S.C. § 284 in an amount to be determined at trial.

**COUNT II: INFRINGEMENT OF U.S. PATENT NO. 9,815,254**

49. Teknor incorporates by references and reasserts each and every allegation set forth in paragraphs 1-48 of this Complaint as if fully set forth herein.

50. Defendant has infringed, either literally or under the doctrine of equivalents, one of more claims of the '254 patent and continues to infringe in this District, by making, having made,

using, offering for sale and/or selling within the United States, and/or importing into the United States, without authority, products that practice one or more claims of the ‘254 patent, including but not limited to the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose (“the Accused Products”). Orbit is thus liable for direct infringement of the ‘254 patent pursuant to 35 U.S.C. § 271 (a). The Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose are non-limiting examples that were identified based on publicly available information obtained, and product purchases made, to date. Teknor reserves the right to identify additional infringing products based on later acquired information or information obtained during discovery.

51. On information and belief, Orbit has actively induced and encouraged the direct infringement of the ‘254 patent by Orbit’s manufacturers, distributors, resellers and retailers by encouraging them to make, use, sell, and or offer to sell within the United States, and/or to import into the United States one or more hose products that embody the inventions of the ‘254 patent. Orbit is therefore liable for indirect infringement of the ‘254 patent under 35 U.S.C. § 271 (b).

52. A representative claim chart detailing Orbit’s infringement of at least claim 1 of the ‘254 patent is set forth below, based on information available to Teknor to date. Teknor reserves the right to modify the descriptions below based on information it obtains during discovery and to assert additional claims from Teknor’s Patents as more information is obtained.

<b><u>Claim 1 of the ‘254 Patent</u></b>	<b><u>Dupont™ Kevlar® Hose and FatMax® Exojacket® Hose</u></b>
<p>1. A hose assembly, comprising:</p> <p>an inner tube comprising an elastomeric material, wherein the inner tube has a longitudinal length and a first circumference below a minimum expansion pressure,</p>	<p>Both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hoses are hose assemblies comprising inner and outer tubes, with a female coupler and male coupler as is typically found on hose products. The products are “hose assemblies” as the term is understood.</p> <p>The inner tubes of both hoses comprise an elastomeric material or a material with elastomeric properties and have a longitudinal length having a first circumference that is below a</p>

<u>Claim 1 of the '254 Patent</u>	<u>Dupont™ Kevlar® Hose and FatMax® Exojacket® Hose</u>
<p>wherein the inner tube is expandable to a larger, second circumference upon application of fluid pressure on an inner surface of the inner tube at or above the minimum expansion pressure; and</p> <p>an outer tube covering the inner tube, the outer tube having a longitudinal length and a weld seam along the longitudinal length of the outer tube, the weld seam comprising melted fabric,</p> <p>wherein the hose assembly further includes a male coupler connected to first ends of the inner tube and the outer tube and a female coupler connected to second ends of the inner tube and the outer tube, and</p> <p>wherein the outer tube is not connected or attached to the inner tube between the male coupler and the female coupler.</p>	<p>minimum expansion pressure, i.e., before water is introduced into the inner tube and exerts at least a minimum fluid pressure on the inner tube.</p> <p>Both hoses expand radially (circumferentially) to a larger, second circumference upon application of fluid pressure (water) at or above the minimum expansion pressure, expanding to fill the sheath (outer tube) when pressure is applied (i.e., when pressurized during use).</p> <p>Both hose assemblies have an outer tube covering the inner tube, the outer tube having a longitudinal length and a weld seam along the longitudinal length of the outer tube, the weld seam of at least the Dupont™ Kevlar® Hose comprising melted fabric. Analysis of the FatMax® Exojacket® weld seam is in progress, and Teknor reserves the right to include additional analysis as it becomes available. Both hose assemblies' outer tubes include a woven fabric, either polyester or nylon.</p> <p>Both hoses have a male coupler connected to first ends of the inner tube and the outer tube and a female coupler connected to the second ends of inner tube and the outer tube.</p> <p>Upon evaluation and deconstructing both hose assemblies, the outer tube is not connected or attached to the inner tube between the male coupler and the female coupler.</p>

53. In addition to claim 1 of the '254 patent, the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose infringe claim 17 of the '254 patent, which recites the same or substantially the same elements as claim 1 of the '254 patent.

54. Both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose include an “outer tube [having] a first end and a second end and two sides between ends, wherein the two sides are bonded at the weld seam, and wherein the outer tube has a fixed longitudinal length.”



(Claim 2 of the '254 patent). In order for the outer tubes to cover the inner tubes of these hoses, it necessary that the outer tube has a first and second end and two sides between ends. Both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose have a weld seam. Neither the Dupont™ Kevlar® Hose nor the FatMax® Exojacket® Hose are longitudinally expandable. As such, the outer tubes would have a fixed longitudinal length. Thus, both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose infringe claim 2. Images showing the weld seam of the Dupont™ Kevlar® Hose (from [Kevlar 60-ft Fabric Hose with Swivel Coupling | Costco](#)) and FatMax® Exojacket® Hose ([Stanley Garden BDS7922 FATMAX 50ft Exojacket Hose, Gray \(amazon.com\)](#)) are shown above in paragraph 42, above.

55. Both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose have an “outer tube [having] an inner surface with a circumference and the second circumference of the inner tube is less than or equal to the outer tube inner surface circumference.” (Claim 3 of the '254 patent). By implication, the outer tube covers the inner tube, so the outer tube’s inner surface circumference would necessarily be equal to or greater than that of the second circumference of the inner tube, i.e., when fluid is introduced. Thus, both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose infringe claim 3.

56. In addition, on comparing the Dupont™ Kevlar® Hose with Teknor’s zero-G® hose, both fabric interfaces were observed to be the same under magnification, with the textile fibers of both samples showing shrinkage, which is common when fibers are exposed to high temperatures as are encountered with weld seams.

57. Upon analysis, claim 5’s limitation of a weld seam having a weld width of 9.5 mm +/- 3.0 is found in the FatMax® Exojacket® Hose (9.5 mm (3/8 inches) wide) and its substantial equivalent is found in the Dupont™ Kevlar® Hose (very slightly over the upper 12.5 mm

maximum). Both hoses have a weld thickness that is at least 50% greater than a thickness of the fabric of the outer tube has been in a non-weld seam section. Thus, both the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose infringe claim 5.

58. Claims 18 and 19, which depend from claim 17, recite the same elements as claims 2 and 5 of the ‘254 patent. Thus, the Dupont™ Kevlar® Hose and the FatMax® Exojacket® Hose infringe claims 18 and 19.

59. Unless enjoined by this Court, Orbit will continue to infringe the ‘254 patent and Teknor will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Teknor is entitled to preliminary and permanent injunctive relief against such infringement under 35 U.S.C. § 283.

60. As a result of Orbit’s infringement of the ‘254 patent under 35 U.S.C. §§271(a) and 271(b), Teknor has incurred and continues to incur actual damages in the form of lost sales and has been and continues to be irreparably injured in its business and its intellectual property rights and is entitled to recover damages for such injuries pursuant to 35 U.S.C. § 284 in an amount to be determined at trial.

### **PRAYER FOR RELIEF**

WHEREFORE, Teknor respectfully prays for relief, as follows:

1. A judgment that each of Teknor’s Asserted Patents is valid and enforceable;
2. A judgment declaring that Orbit has directly infringed one or more of the claims of the Asserted Patents, either literally or under the doctrine of equivalents and indirectly, by way of inducement under 35 U.S.C. §§ 271 (a) and (b);
3. An order and judgment, in accordance with 35 U.S.C. § 283, that Orbit and all of its affiliates, employees, agents, officers, directors, attorneys, successors, and assigns and all those

acting in privity with, on behalf of, in active concert or participation with, or at the direction of, any of them, be preliminarily and permanently enjoined from (1) infringing the Asserted Patents, directly or indirectly, and (2) making, having made, using, selling and/or offering for sale within the United States, and/or importing into the United States, without authority, the Accused Products;

4. An award of damages sufficient to compensate Teknor for Orbit's infringement of Teknor's Asserted Patents under 35 U.S.C. § 284, but in no event less than a reasonable royalty for Orbit's acts of infringement, including all prejudgment and post-judgment interest at the maximum rate permitted by law;

5. A judgment awarding Teknor treble damages based on any infringement found to be willful, pursuant to 34 U.S.C. 284, together with prejudgment interest;

6. A judgment awarding Teknor all of Orbit's profits, together with prejudgment interest;

7. Actual damages in the form of lost sales suffered by Teknor as a result of Orbit's unlawful conduct, in an amount to be proven at trial, as well as prejudgment interest as authorized by law;

8. A judgment finding that this case is exceptional under 35 U.S.C. § 285 and awarding Teknor its attorneys' fees in bringing this action;

9. Costs and expenses in this action; and

10. Such other and further relief as the Court may deem just and proper.

#### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 (b) of the Federal Rules of Civil Procedure, Teknor hereby demands trial by jury on all issues raised by the Complaint.

TEKNOR APEX COMPANY

By its attorneys,

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