

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

BOARD & BATTEN INTERNATIONAL INC.,)	
)	
Plaintiff,)	
)	Civ. Action No. _____
v.)	
)	JURY TRIAL DEMANDED
SKYWALKER HOLDINGS, LLC DBA SKYWALKER TRAMPOLINES,)	
)	
Defendant.)	
)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Board & Batten International Inc. (“B&B” or “Plaintiff”) files this original complaint against Skywalker Holdings, LLC DBA Skywalker Trampolines (“Skywalker” or “Defendant”), and in support thereof, states as follows:

NATURE OF THE ACTION

1. Plaintiff B&B brings this action to enjoin the manufacture, importation, distribution, use, sales, and offers to sell by Defendant Skywalker of certain products known as “Skywalker 16’ Round Epic Series Trampoline” and “Skywalker 14’ Round Epic Series Trampoline” (collectively, the “Infringing Products”) that infringe or contribute toward the infringement of one or more valid and enforceable U.S. patents owned by B&B, as well as for monetary damages for Defendant’s willful infringement.

THE PARTIES

2. Plaintiff Board & Batten International Inc. is a Cayman Island exempt company with a principal location at c/ International Management Services Ltd, Harbour Centre 4th Floor, North Church Street, Georgetown, Cayman Islands.

3. Upon information and belief, Defendant Skywalker Holdings, LLC is a Utah

limited liability company with its principal place of business located at 1006 West Highway 13, Unit #8, Brigham City, Utah 84302. Defendant can be served by and through its registered agent, Treven G. Workman, 632 North Main Street, Suite 2C, Logan, Utah.

JURISDICTION AND VENUE

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

5. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

6. Defendant is subject to this Court's personal jurisdiction because it does and has done substantial business in this judicial district, including selling and offering to sell the Infringing Products throughout the United States, and particularly in Texas and in this judicial district. In addition, upon information and belief, Defendant (directly and/or through a distribution network) has or intends to regularly place the Infringing Products in the stream of commerce with the knowledge and/or understanding that the Infringing Products will be sold in Texas and in the Eastern District. Defendant is subject to the general jurisdiction of this Court because it has regular and systematic contacts with this forum such that the exercise of jurisdiction over it would not offend traditional notions of fair play and substantial justice.

7. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) and (c), as well as under 28 U.S.C. § 1400(b); namely, Defendant has committed acts of infringement in this judicial district and has a regular and established place of business in this judicial district.

8. By way of example but not limitation:

- a. Defendant Skywalker is a Utah limited liability company that registered as a foreign entity qualified to transact business in the State of Texas;

- b. Defendant Skywalker lists many “Authorized Retailers,” most if not all of which have a substantial presence in Texas and in this judicial district, including but not limited to Academy Sports + Outdoors, Amazon, Bass Pro Shops, Cabela’s Outdoor Adventures, Dick’s Sporting Goods, The Home Depot, Kohl’s, Lowe’s, Macy’s, Play It Again Sports, Sam’s Club, Sears, Target, Walmart, and Wayfair (see <https://www.skywalkertrampolines.com/pages/authorized-retailers>); and
- c. As one particular example, Family Store Network is an “Authorized Retailer” of Defendant Skywalker and has its sole location in Orange, Texas, located in the Eastern District of Texas (<https://www.1800trampoline.com/about-us.aspx>).

THE ASSERTED PATENT

9. On December 21, 2010, the United States Patent and Trademark Office (“USPTO”) duly and legally issued to B&B United States Patent No. 7,854,687 (“’687 Patent,” attached as **Exhibit A**), entitled “Trampoline and Enclosure System.” The ’687 Patent includes two (2) independent claims and six (6) dependent claims.

10. Any required maintenance fees have been paid, and the ’687 Patent has not expired. B&B is the owner by assignment of the entire right, title, and interest in the ’687 Patent. For the avoidance of doubt, attached as **Exhibit B** is a Corrective Patent Assignment filed with the Assignment Branch on September 28, 2022, clarifying that Board & Batten International Inc. (not Board & Batten Inc. as erroneously listed in the original assignment) is and has been the assignee of the ’687 Patent since June 20, 2007.

OVERVIEW OF B&B AND ITS SPRINGFREE®-BRANDED TRAMPOLINES

11. B&B is widely recognized as an innovator and a leader in the design of high end trampolines and accessories offering extremely high levels of safety. Quite simply, B&B’s innovations have revolutionized the trampoline industry. To this end, B&B owns a valuable

portfolio of intellectual property, including but not limited to an international portfolio of patents covering a variety of trampoline design elements such as rod-based trampolines, rod retaining cleat systems, safety enclosures, rod safety systems, and others.

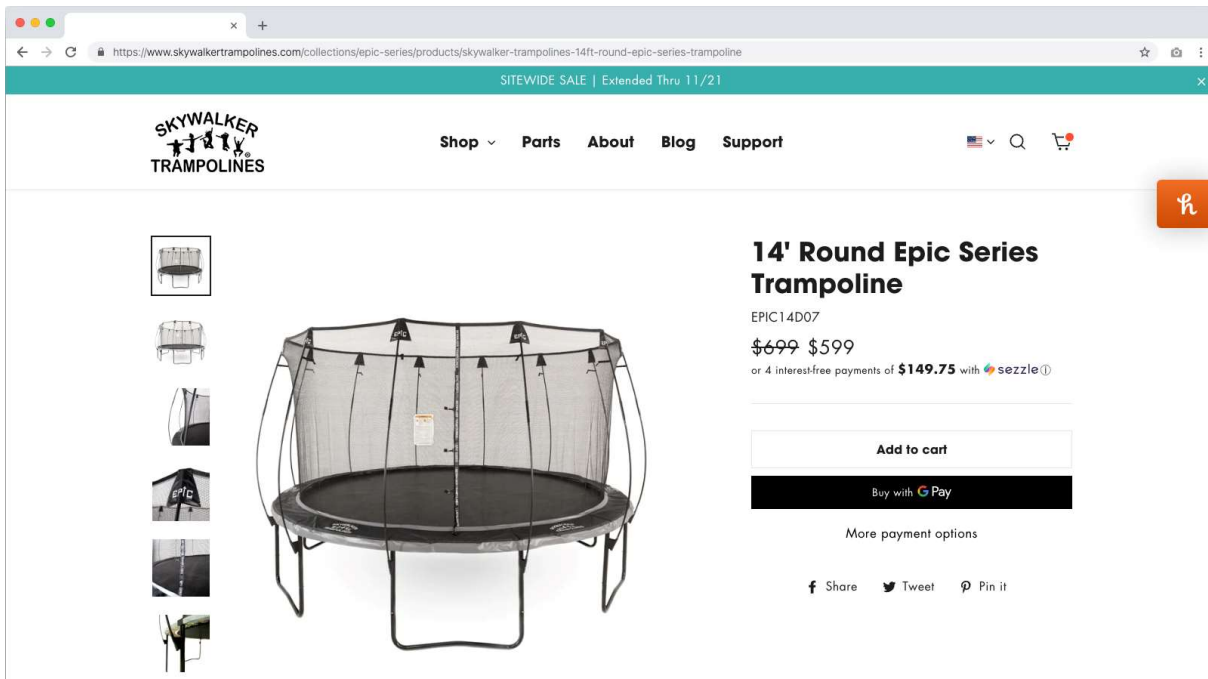
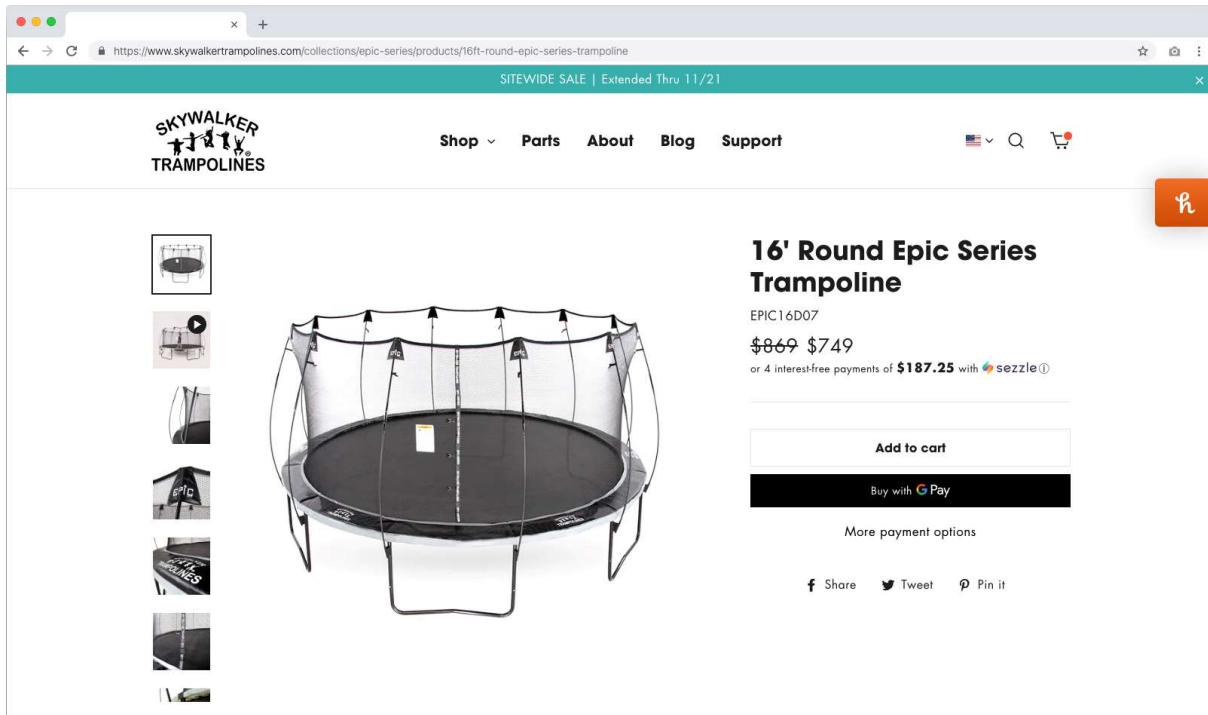
12. The high end trampolines and accessories embodying B&B's intellectual property, including but not limited to those features claimed in the '687 Patent, are sold under the Springfree® brand. Springfree®-branded trampolines have been successfully commercialized since at least 2003, and are now sold in over 20 countries, including the United States. B&B, through its Springfree®-branded trampolines, has thus gained a stellar reputation for safety and quality.

13. Springfree®-branded trampolines are marketed and sold across the United States, including through two (2) Springfree® retail showrooms (Allen, Texas; and Issaquah, Washington) and through more than fifty (50) authorized dealers from coast to coast. *See* <https://www.springfreetrampoline.com/store-locator/>. Springfree®-branded trampolines are also available online at <https://www.springfreetrampoline.com/>.

FACTUAL ALLEGATIONS OF PATENT INFRINGEMENT

14. Defendant Skywalker has made, used, offered to sell, and/or sold within the United States, and/or imported into the United States, at least its Skywalker 16' Round Epic Series Trampoline and Skywalker 14' Round Epic Series Trampoline. The Infringing Products are marketed and sold by Defendant Skywalker under the brand "Skywalker Trampolines" and the sub-brand "Epic Series." *See* <https://www.skywalkertrampolines.com/pages/epic-series>. At this time, only Defendant's "Round Epic Series" trampolines are accused of infringement based on their inclusion of the "flex rod enclosure system," whereas Defendant's "Rectangle Epic Series" trampoline does not include such "flex rod enclosure system."

15. Defendant Skywalker offers the Infringing Products for sale within the United States at least via its website, as depicted below:



16. Defendant Skywalker also offers, or contracts with third parties to offer, the Infringing Products for sale in the United States through third-party websites and retailers, such as:

- a. Academy - <https://www.academy.com/p/skywalker-trampolines-epic-series-16-ft-round-trampoline-w-enclosure>
- b. Kohl's - <https://www.kohls.com/product/prd-5659373/skywalker-trampolines-16-foot-round-epic-series-trampoline.jsp>
- c. Lowes - <https://www.lowes.com/pd/Skywalker-Skywalker-Trampolines-16ft-Round-Epic-Series-Trampoline/5001920657>
- d. Target - <https://www.target.com/p/skywalker-trampolines-epic-series-16-39-round-trampoline-black-gray/-/A-82731354>
- e. Walmart - <https://www.walmart.com/ip/Skywalker-Trampolines-Epic-Series-16ft-Round-Trampoline-with-Dual-Black-and-Gray-Springpad/603350319>
- f. Wayfair - <https://www.wayfair.com/outdoor/pdp/skywalker-trampolines-epic-series-16-round-trampoline-with-dual-blackgray-springpad-swk10047.html>

17. Defendant Skywalker has used the Infringing Products within the United States, for example, in connection with product testing and/or creating photographs or videos of the Infringing Products for promotional purposes.

18. Third-party users (e.g., product reviewers and end users) have assembled and/or used the Infringing Products in the United States as directed by user instructions and/or other literature included with the Infringing Products.

19. Defendant Skywalker has known of the '687 Patent since at least as early as October 13, 2022, when Plaintiff B&B sent a letter to Defendant Skywalker and various retailers

of the Infringing Products advising of infringement of the '687 Patent and demanding the cessation of such infringement. Upon information and belief, Defendant Skywalker had knowledge of the '687 Patent before receiving such letter from Plaintiff B&B.

20. Defendant Skywalker creates and distributes technical, marketing, sales, and product literature for the Infringing Products that encourage or instruct end users to assemble and use the Infringing Products, including at least the following:

- a. Product Video - https://youtu.be/Ug_1Xz1W5aQ



- b. Assembly Video - <https://youtu.be/zmr42Bo8fh4>

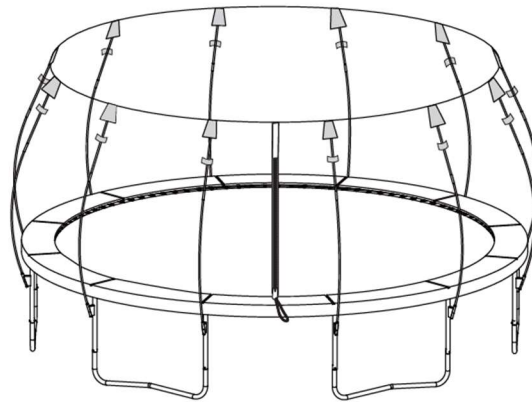


c. Product Manual –

https://cdn.shopify.com/s/files/1/0332/6695/8473/files/EPIC16D07_Manual_draft_5.pdf?v=1629215435

ASSEMBLY, MAINTENANCE, & **USER MANUAL**

MODEL # EPIC16D07



⚠ WARNING
Read all precautions and instructions in this manual before using this equipment. Save this manual for future reference.
Maximum user weight 400 lbs.

EPIC
SERIES

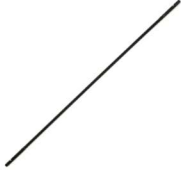




SKYWALKER
TRAMPOLINES
Skywalker Holdings LLC
P.O. Box 574, Brigham City, UT 84302

21. Defendant Skywalker sells or offers to sell within the United States, or imports into the United States, components of the Infringing Products, such as replacement parts, that Defendant Skywalker knows are especially made or especially adapted for use in the Infringing Products, and not a staple article or commodity of commerce suitable for other uses due to the specific designs of the Infringing Products, including at least the following:

a. Replacement Parts –


<https://www.skywalkertrampolines.com/collections/epic16d07-replacement-parts>


EPIC16D07 Replacement Parts


			
Lower Enclosure Flex Rod \$\$\$ \$26	Upper Enclosure Flex Rod \$25 \$20	Flex Rod Connector \$6 \$5	7" Spring \$52 \$42
			
16 Ft. Round Enclosure Net for Flex Rod \$155 \$124	16 Ft. Round Jump Mat w/108 V-Rings \$270 \$216	16 Ft. Round Dual Black/Grey Spring Pad \$182 \$146	Main Frame Top Tube \$45 \$36

Skywalker 16' Round Epic Series Trampoline




22. The Skywalker 16' Round Epic Series Trampoline is a trampoline having an enclosure system (red callout boxes added):



16' Round Epic Series Trampoline
EPIC16D07
~~\$869~~ \$749
or 4 interest-free payments of **\$187.25** with 

Add to cart
Buy with 

More payment options

 Share  Tweet  Pin it

The image shows a product listing for the Skywalker 16' Round Epic Series Trampoline. It features a large central image of the trampoline with a black mat and a silver frame. To the left is a vertical strip of seven smaller images showing different views of the trampoline. To the right is a product information box with the title '16' Round Epic Series Trampoline', model number 'EPIC16D07', a price of '\$869' (delisted) and '\$749', and a financing option of '4 interest-free payments of \$187.25 with sezzle'. Below this is a white 'Add to cart' button, a blue 'Buy with shop Pay' button, and a link for 'More payment options'. At the bottom are social media sharing icons for Facebook, Twitter, and Pinterest.

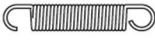
When it comes to outdoor family fun, don't just go big, go epic with the Skywalker Trampolines 16ft Round Epic Series Trampoline. The highly regarded Skywalker Trampolines brand launches a new series of trampolines that will further elevate backyard play. We're upping our game in more ways than one with a sleek design, a new enclosure pole system, and an increased weight capacity. On top of all the improvements, we continue our safety-first approach with our patented no-gap enclosure net. Make your backyard the perfect place to play with the Skywalker Trampolines 16ft Round Epic Series Trampoline!

23. The Skywalker 16' Round Epic Series Trampoline includes a flexible mat and a plurality of coil springs holding the mat in tension within a peripheral frame of the trampoline surrounding the mat (red callout boxes added):

PART LIST

Key No.	Qty.	Description
1	12	Leg Upright
2	12	Top Tube
3	6	Leg Brace
4	12	M6X48mm Bolt
5	12	M6 Washer
6	12	M6 Capnut
7	1	Jump Mat
8	1	Enclosure Net
9	108	Springs
10	1	Frame Pad
11	12	Lower Enclosure Flex Rod
12	12	Upper Enclosure Flex Rod
13	12	Connect Tube
14	1	Spring Tool
15	12	End Cap (pre-installed)
16	1	Screw Driver
17	1	Wrench
#	1	User Manual & Safety Placard
#	1	Set of ASTM Frame Labels

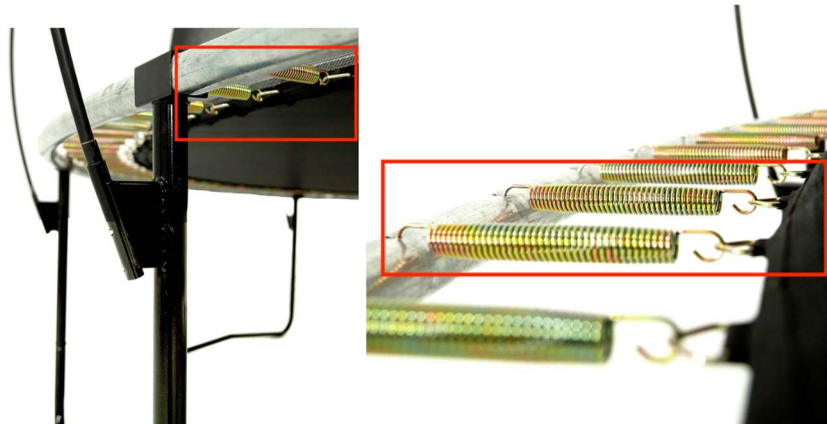
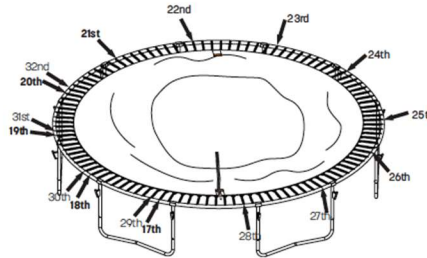
STEP 13



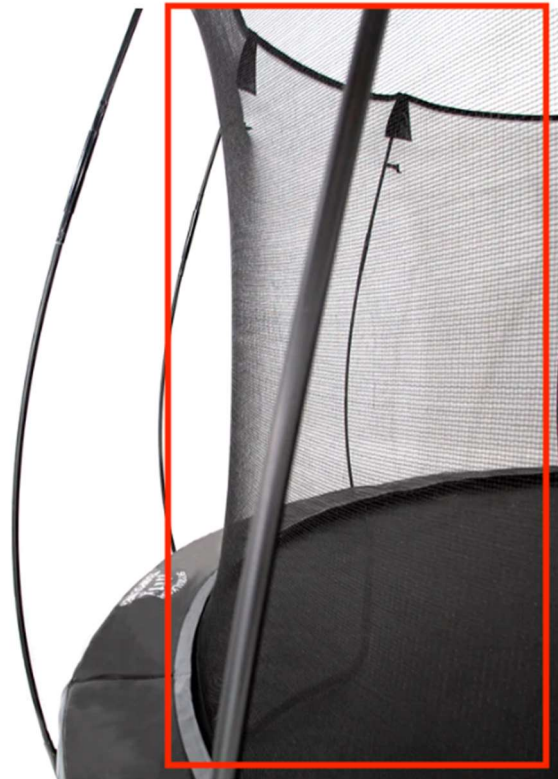
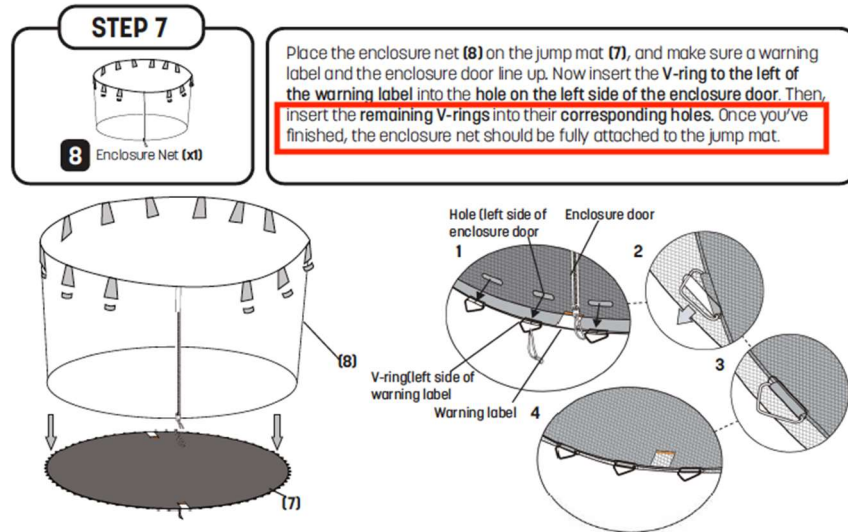
9 Springs (x92)

Now, place one spring **directly to the left** of each spring placed at a leg upright. Continue this pattern in a **clock-wise direction**, attaching the remaining springs until all 108 springs have been placed.

Pro-tip: Follow the pattern here (placing a spring to the left of an already placed spring.) Placing springs one directly after the other can cause uneven tension resulting in springs becoming increasingly difficult to place.



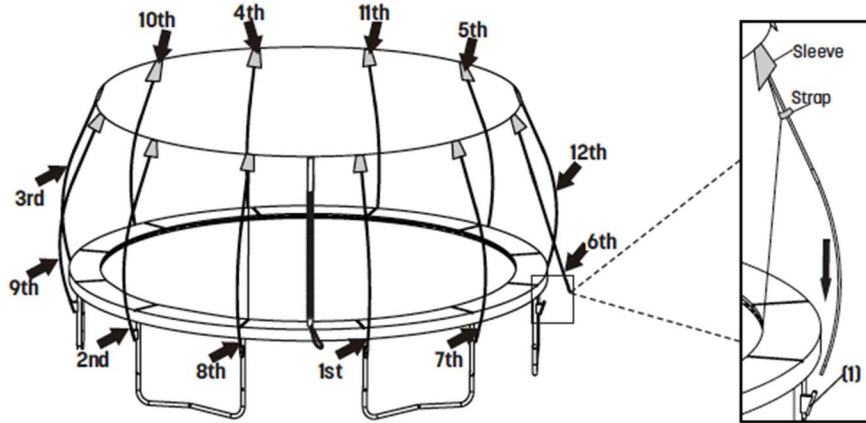
24. The Skywalker 16' Round Epic Series Trampoline includes an enclosure system having a flexible barrier net coupled to and extending above the flexible mat (red callout boxes added):



25. The Skywalker 16' Round Epic Series Trampoline includes a plurality of flexible enclosure rods mounted outside of the flexible barrier (red callout boxes added):

STEP 18

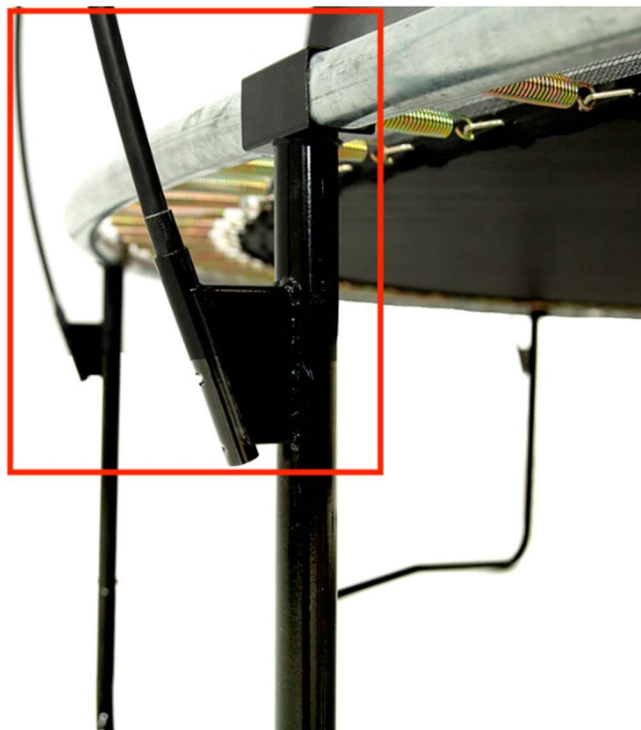
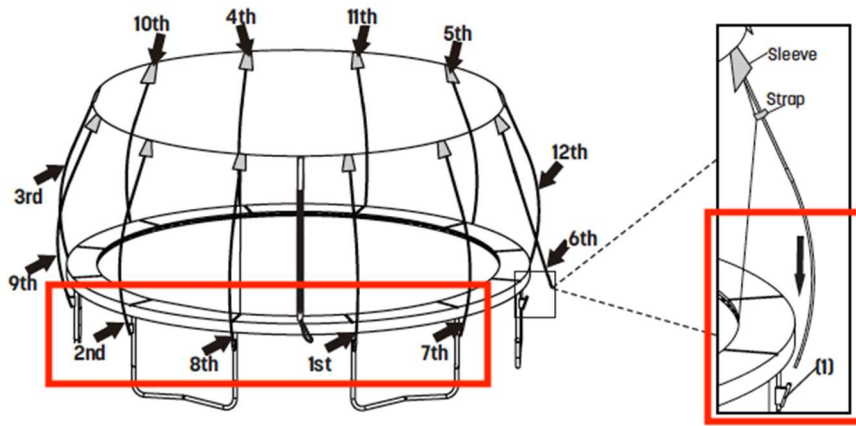
Starting from the enclosure door, lift and insert the bottom of the enclosure rod into the bracket on the leg upright (1) (make sure the push pin is facing out so it can easily pop into place) Continue in a clock-wise direction, placing every other enclosure rod until all enclosure rods have been placed.



26. The Skywalker 16' Round Epic Series Trampoline includes a plurality of flexible enclosure rods, with each connected at or towards its lower end to the frame of the trampoline (red callout boxes added):

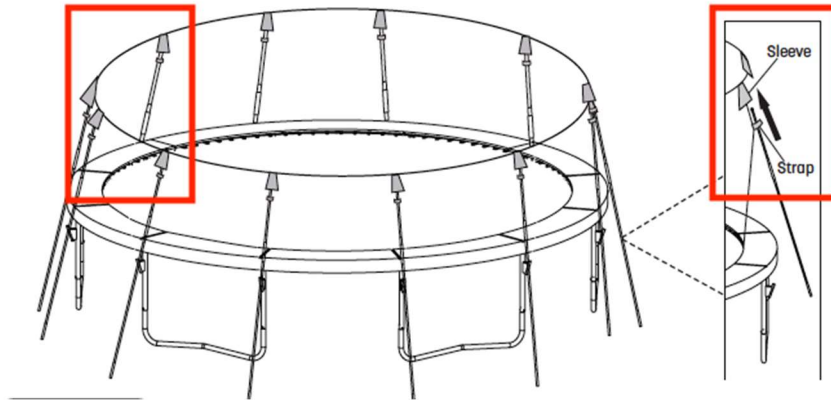
STEP 18

Starting from the enclosure door, lift and insert the bottom of the enclosure rod into the bracket on the leg upright (1) (make sure the push pin is facing out so it can easily pop into place) Continue in a clock-wise direction, placing every other enclosure rod until all enclosure rods have been placed.

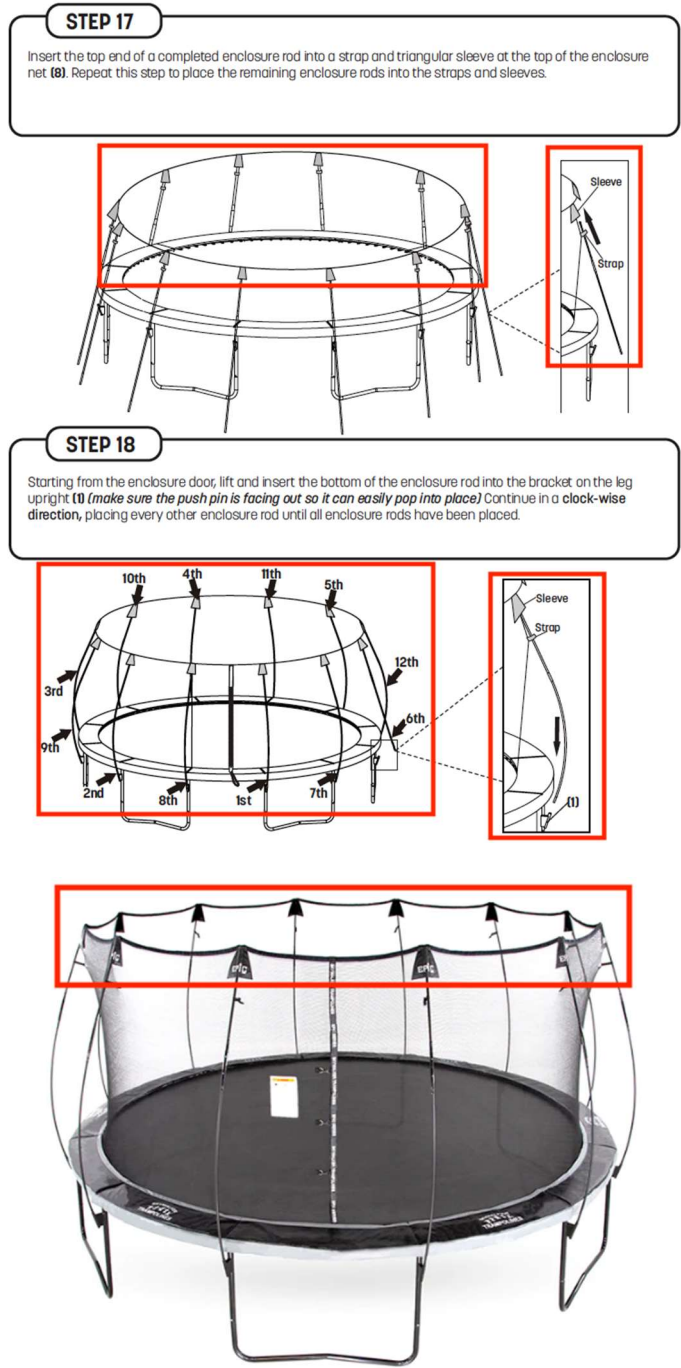


27. The Skywalker 16' Round Epic Series Trampoline includes a plurality of flexible enclosure rods, with each connected to the barrier net only at or near an upper peripheral part of the barrier net (red callout boxes added):

STEP 17
Insert the top end of a completed enclosure rod into a strap and triangular sleeve at the top of the enclosure net (8). Repeat this step to place the remaining enclosure rods into the straps and sleeves.



28. The Skywalker 16' Round Epic Series Trampoline includes a plurality of flexible enclosure rods, with each connected together at or toward the upper end of the flexible enclosure rods to draw the upper ends away from their natural rest state and towards the center of the mat (red callout boxes added):



29. The flexible enclosure rods used in the Skywalker 16' Round Epic Series Trampoline are made of polyethylene-sleeved fiberglass (red callout boxes added):



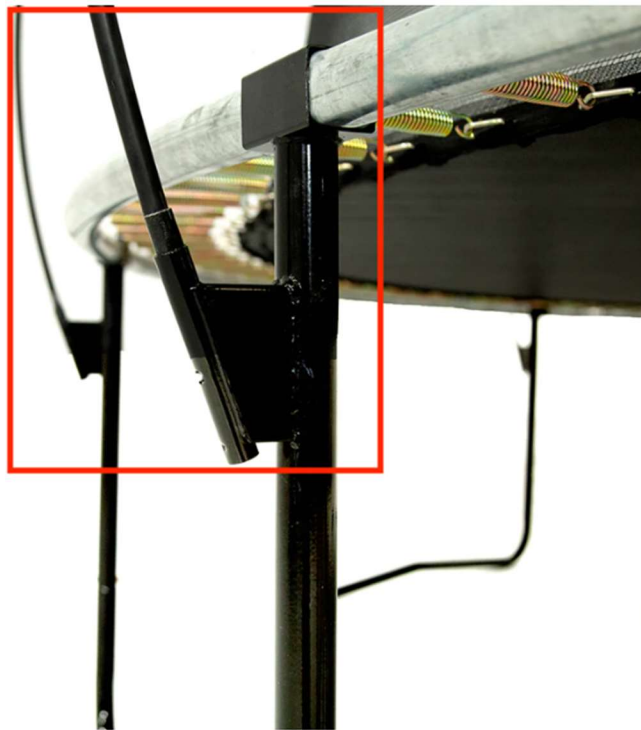
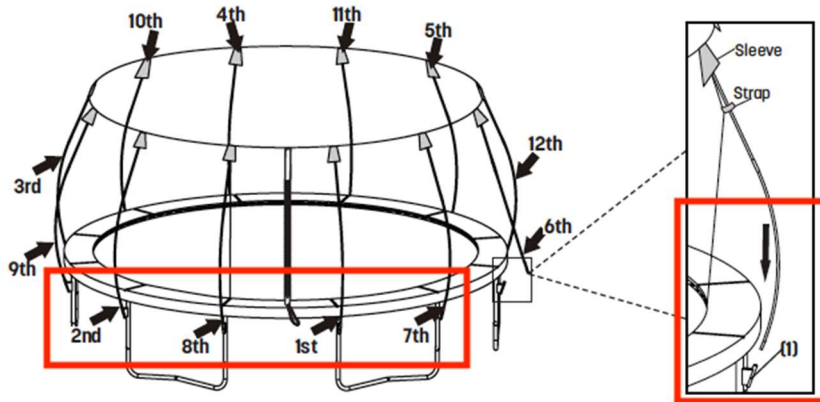
Upper Enclosure Flex Rod

This durable upper enclosure flex rod is made of polyethylene-sleeved fiberglass. Enjoy trampoline play safely with the security and protection of this upper enclosure flex rod – built to absorb and cushion impact.

30. The flexible enclosure rods used in the Skywalker 16' Round Epic Series Trampoline are connected to the frame of the trampoline below the surface of the mat (red callout boxes added):


STEP 18

Starting from the enclosure door, lift and insert the bottom of the enclosure rod into the bracket on the leg upright (1) (make sure the push pin is facing out so it can easily pop into place) Continue in a clock-wise direction, placing every other enclosure rod until all enclosure rods have been placed.



Skywalker 14' Round Epic Series Trampoline


31. The Skywalker 14' Round Epic Series Trampoline is a trampoline having an enclosure system identical (or at least substantially similar) to the enclosure system of the Skywalker 16' Round Epic Series Trampoline detailed above; thus, the above applies with equal force to the Skywalker 14' Round Epic Series Trampoline (red callout boxes added):




14' Round Epic Series Trampoline

EPIC14D07




~~\$699~~ \$599

or 4 interest-free payments of **\$149.75** with  sezzle[®]

Add to cart

Buy with  G Pay

More payment options

 Share  Tweet  Pin it

Welcome to the next chapter of the Skywalker Trampolines' Epic Series now with a 14' round model. Like the original 16' Epic trampoline, the 14' Epic sports a sleek design, a flex rod enclosure system, and an increased weight capacity. Enjoy all the performance and safety benefits the Epic Series offers, now jam-packed into a 14-foot diameter for those with limited yard space.

COUNTS

COUNT I – INFRINGEMENT OF THE '687 PATENT

32. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 31 of this Complaint as if fully set forth herein.

33. Plaintiff B&B is the owner, by assignment, of the entire right, title, and interest in the '687 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '687 Patent.

34. The '687 Patent is valid, enforceable, and was duly issued by the United States Patent Office upon finding it fully complied with Title 35 of the United States Code.

35. Defendant Skywalker, directly or through its subsidiaries, divisions, distributors, or groups, have infringed and continue to infringe the claims of the '687 Patent by making, using, selling, and/or offering to sell, or allowing others to make, use, sell, and/or offer to sell the Infringing Products. Specifically, the Infringing Products infringe at least claims 1 through 8 of the '687 Patent literally and/or under the doctrine of equivalents. Each of the Infringing Products infringes claims 1-8 of the '687 Patent at least because each Infringing Product includes each and every limitation of claims 1-8.

36. Defendant Skywalker is liable for infringement of the '687 Patent under 35 U.S.C. § 271.

37. Defendant Skywalker's acts of infringement have caused damage to Plaintiff B&B, and Plaintiff B&B is entitled to recover from Defendant Skywalker the damages sustained by Plaintiff B&B as a result of Defendant Skywalker's wrongful acts in an amount to be proven at trial.

38. As a consequence of the infringement complained of herein, Plaintiff B&B has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant Skywalker is enjoined by the Court from committing further acts of infringement.

39. Defendant Skywalker's acts of infringement have been undertaken with knowledge of the '687 Patent. Such acts constitute willful infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285, and further entitle Plaintiff B&B to enhanced damages and reasonable attorneys' fees.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff B&B respectfully requests the following relief against Defendant Skywalker:

- A. A judgment that the '687 Patent is duly and legally issued, valid, and enforceable;
- B. A judgment holding Defendant Skywalker liable for infringement of the '687 Patent;
- C. A temporary restraining order, preliminary injunction, and permanent injunction against Defendant Skywalker, its officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '687 Patent, including without limitation, an injunction against offers for sale and future sales of the Infringing Products and colorable imitations thereof;
- D. An accounting for damages and an award of compensatory damages resulting from Defendant Skywalker's infringement of the '687 Patent, together with pre-judgment and post-judgment interest;

E. A judgment holding that Defendant Skywalker's infringement of the '687 Patent is willful and a trebling of damages pursuant to 35 U.S.C. § 284;

F. A judgment holding that this action is an exceptional case and an award to Plaintiff B&B its attorneys' fees and costs pursuant to 35 U.S.C. § 285 and other authority;

G. A judgment that Plaintiff B&B be awarded its costs incurred herein; and

H. Such other relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff B&B hereby demands trial by jury.

Dated: November 17, 2022

Respectfully submitted,

/s/ Kelly J. Kubasta

Kelly J. Kubasta

Texas Bar No. 24002430

Tory Cronin

Texas Bar No. 24055362

Kevin Barnett

Texas Bar No. 24103834

FERGUSON BRASWELL FRASER KUBASTA PC

2500 Dallas Parkway, Suite 600

Plano, Texas 75093

Phone: 972-378-9111

Fax: 972-378-9115

kkubasta@fbfk.law

tcronin@fbfk.law

kbarnett@fbfk.law

COUNSEL FOR PLAINTIFF

BOARD & BATTEN INTERNATIONAL, INC.