UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TETRO LTD., Plaintiff, v. SMART TRIKE MNF. PTE. LTD., SMARTRIKE MARKETING, LTD, and SMARTRIKE USA INC. Defendants.	**Civil Action No.** _____ **JURY TRIAL DEMANDED**

COMPLAINT FOR PATENT INFRINGEMENT,
DECLARATORY AND INJUNCTIVE RELIEF

Tetro Ltd. ("Plaintiff" or "Tetro") by its undersigned counsel and for its Complaint demands a jury trial and complains against Smart Trike MNF. PTE. Ltd. ("MNF"), Smartrike Marketing, Ltd., ("MKT") and SmarTrike USA, Inc. ("STI") (collectively "Defendants") as follows:

THE PARTIES

1. Plaintiff Tetro is a corporation organized under the laws of Hong Kong, having a place of business at Unit 204, Westlands Centre, 20 Westlands Road, Quarry Bay, Hong Kong.

2. Defendant STI is a corporation organized under the laws of Delaware, having principal places of business at, at least, 3201 Centre Pkwy, Atlanta, GA 30349; 1980 Technology Drive, Ste. C, Charleston, SC 29492; 1370 Oakland Blvd. 150, Waterford, MI 48327; 160 Mine Lake Ct. Ste. 200, Raleigh, NC 27615; and 910 Foulk Rd., Ste. 201, Wilmington, DE 19803.

3. Defendant MKT is an Israeli private company having a principle place of business at Leshem 12 Qiryat Gat Israel.

4. Defendant MNF is a corporation organized under the laws of Singapore, having a place of business at 138 Cecil Street #13-02, Cecil Court, Singapore 1.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States of America, Title 35 of the United States Code. This Court has subject matter jurisdiction of this action under 28 U.S.C. §§ 1331, 1332, and 1338(a).

6. Venue for STI is proper in this Court pursuant to 28 U.S.C. § 1400(b) and Local Rule 3.1. because STI has a principal place of business within this District and Division, as set forth above, and because STI has offered to sell and has sold the Infringing Product (as defined below) within this District to various consumers and/or retailers and has also used tested, and/or imported products to this District.

7. Venue over Defendants MNF and MKT is proper in this District pursuant to 28 U.S.C. §1391 and because the Court has personal jurisdiction over these two foreign Defendants based upon the allegations set forth in the paragraph below.

8. Defendants MNF, MKT, and STI are subject to personal jurisdiction in this District by the virtue of the fact that all three Defendants have committed acts of infringement in this District by making, using, advertising, marketing, testing, selling, offering to sell, inducing others to infringe, contributing to the infringement of others and/or importing Infringing Products within this District, either directly and/or through intermediaries, including without limitation by offering its Infringing Products through retail stores located within this District and through websites that make sales of the Infringing Products to customers within this District.

THE PATENT AND THE INFRINGING PRODUCT

9. United States Patent No. 10,357,676 ("the '676 Patent"), entitled "Bi-Directional Device and Methods of Its Use" was duly and legally issued by the United States Patent and Trademark Office on July 23, 2019 from Application Serial No. 15/544,355. A copy of the '676 Patent is attached hereto as Exhibit A.

10. Tetro, is the owner by assignment of all right, title and interest in the '676 Patent, including the right to sue for past, present and future infringement of

the ‘676 Patent.

11. The ‘676 Patent is directed to a multifunctional child’s toy/activity center, which in one configuration operates as a trampoline, and in another configuration operates as any of a playpen, a pool, or a ball pit.

12. Defendants make, import into the United States, market, offer to sell, and sell in the United States, including in this District, its “3-in-1 Trampoline & Ball Pit Activity Center” (hereinafter “the Infringing Product”), as shown in attached Exhibit B. At least Defendant STI sells and offers to sell the Infringing Product both in this District and throughout the United States. Defendants MKT and MNF import, directly or indirectly, the Infringing Product into the United States in violation of 35 USC §271(a). It is believed discovery will show that all three Defendants engage in the using, selling, offering to sell, and importing the Infringing Product into the United States and into this District.

13. In addition, Defendants MKT and MNF, through their individual and joint efforts to manufacture and import the Infringing Product into the United States, induce infringement by aiding and abetting Defendant STI to sell and offer to sell the Infringing Product in the United States, by aiding and abetting retailers and distributors in the United States to sell and offer to sell the Infringing Product in the United States, and by aiding and abetting consumers to use the Infringing Product in

the United States, all of which induces direct infringement in the United States.

14. Defendants MNF and MKT have engaged in the above-described activities with full knowledge of the '676 patent, at least from a prior dispute the parties had concerning a counterpart patent in Australia, and with the specific intent to cause retailers and consumers to violate the '676 patent.

THE PARTIES' DISPUTE IN AUSTRALIA

15. Tetro became aware that one or more Defendants or their affiliates were selling a "3-in-1 Trampoline & Ball Pit Activity Center" product in Australia substantially similar to that at issue here.

16. Tetro has a patent registered in the Australian Patent Office ("Tetro's AU Patent"). Before Tetro's AU Patent was granted, MNF filed a pre-grant opposition in the AU Patent Office ("the AU Opposition"). MNF argued that Tetro's AU Patent should not be granted because MNF was allegedly entitled to the patent or that a patent should not be granted at all.

17. Tetro responded to the AU opposition with detailed evidence proving, amongst other things, that: (1) Tetro is the owner of the invention; and (2) the patent should be granted under AU patent law. Some of the evidence provided included a declaration by Mr. Ilan Ben Meir, the inventor, and past admissions of Tetro's ownership of the invention by MNF's representatives during a period when a

distribution agreement between the parties regarding Tetro's trampoline was in force, and also after its termination.

18. In response to Tetro's evidence, MNF unilaterally and without Tetro's consent, withdrew the AU opposition. Tetro's AU Patent was thereafter granted in January 2021 and MNF was required to pay Tetro's costs for having started the opposition and then withdrawing it without consent.

19. Following the grant of Tetro's AU Patent, an infringement dispute concerning such patent was settled. The settlement agreement does not relate to the '676 patent.

COUNT I –DIRECT INFRINGEMENT UNDER 35 USC 271(a)

20. Plaintiff Tetro repeats and incorporates herein the entirety of the allegations contained in the above paragraphs.

21. The '676 Patent is valid, enforceable and owned by Tetro, which has the right to sue for past, present and future infringement of the '676 Patent.

22. At all times, all products produced and/or sold by, or for, Tetro in the United States, whether directly, under license or under some other agreement, have been marked pursuant to 35 U.S.C. § 287.

23. Defendant STI uses, offers for sale, sells, tests, and/or imports the Infringing Product into the United States including, but not limited to, within this

District, in violation of 35 U.S.C. § 271(a).

24. Defendants MKT and MNF have engaged in, *inter alia*, the offer for sale, sale, and/or importation of Infringing Product into the United States, in violation of 35 U.S.C. § 271(a).

25. Upon information and belief, Defendants all promote and sell the Infringing Product via their mutual website at www.smartrike.com, as well as through various and numerous retail locations, both brick-n-mortar and online, both within and without this District.

26. Thus, all Defendants have been and still are directly infringing claims of the '676 Patent, including at least claims 1-3 and 5-10 (the "Infringed Claims"), by, among other things, manufacturing, having manufactured for them, making, having made for them, using, advertising, marketing, testing, selling, offering to sell, and/or importing, either directly or through other entities, the Infringing Product.

27. A claim chart mapping the Infringing Product specifically to the claims at issue is attached hereto at Exhibit C.

28. As a direct and proximate result of Defendants' infringement, Tetro has suffered, and will continue to suffer, serious irreparable injury unless such infringing activities are enjoined by this Court.

29. In addition, or in the alternative, Tetro is entitled to recover from

Defendants damages adequate to compensate it for Defendants' infringement, but, in no event, less than a reasonable royalty, in an amount to be proven at trial.

30. Upon information and belief, as a direct and proximate result of Defendants' infringing conduct, they have realized and continue to realize profits and other benefits rightfully belonging to Tetro and causing Tetro immediate irreparable harm.

COUNT II – INDUCEMENT OF INFRINGEMENT

31. All Defendants have, with prior knowledge of the '676 Patent at least as a result of the Australian dispute described above, and with the specific intent that the retailers, distributors, and customers to which the Infringing Product was sent by MNF and MKT would infringe the '676 Patent in the United States, sold, offered to sell, imported and/or used the Infringing Product in such a manner as to cause said retailers, distributors, and customers to infringe the '676 Patent in the United States.

32. Defendant STI, through its corporate relationship with MNF and MKT, gained knowledge of the '676 Patent, and with such full knowledge, continued (and continues) to engage in selling, offering to sell, and using, in the United States, and importing into the United States, the Infringing Product, with the specific intent to encourage is retail and distributor customers, and end users, to directly infringe the '676 Patent.

33. All Defendants MNF, MKT, and STI, are thus liable for inducing infringement under 35 U.S.C. § 271(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Tetro requests judgment against Defendants and asks for the following relief:

A. Declaration that all Defendants have infringed and are infringing the '676 Patent;

B. Declaration that the '676 Patent, is valid and enforceable;

C. An accounting for damages under 35 U.S.C. § 284 from Defendants for the infringement of the '676 Patent, and the award of damages ascertained against Defendants in favor of Tetro, together with interest, as provided by law;

D. A preliminary and permanent injunction against Defendants, including each of its officers, agents, servants, employees, and attorneys, all parent, subsidiary and affiliated entities, their assigns and successors in interest, and those persons acting in active concert or participation with them, including distributors and customers, directing them as follows:

(i) barring all manufacturing, use, testing, sales, offering for sale and importation into the United States of the Infringing Product;

(ii) barring all promotional, marketing and advertisement activities that

constitute direct infringement of the '676 Patent; and

(iii) impounding Defendants' products that infringe the '676 Patent;

E. Awarding Tetro its actual damages in the form of lost profits and/or reasonable royalties, in an amount to be determined at trial.

F. Award of Tetro's costs and expenses, including reasonable attorney fees and legal costs; and

G. Such other and further relief as this Court may deem proper, just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff Tetro demands a trial by jury of all issues properly triable by jury in this action.

Dated: December 14, 2022

/s/ J. Zachary Zimmerman

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