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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WATERS INDUSTRIES, INC.,

Plaintiff,

v.

EZ HOME INC,

Defendant.

CASE NO. 3:23-CV-5672

**COMPLAINT FOR
PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Waters Industries, Inc. (“Waters Industries”) complains against Defendant EZ HOME Inc (“Defendant”) as follows:

NATURE OF ACTION

1. This is an action for patent infringement of United States Patent Nos. 8,550,651 and 9,585,431 (collectively, the “Patents in Suit”) under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

1 conjunction with others, has committed acts of infringement within the State of
2 Washington and in this District.

3 7. Venue is proper in this District under 28 U.S.C. § 1400(b) at least because
4 Defendant resides in this District. Defendant has a principal place of business in this
5 District and has committed acts of infringement within the District. Further, Defendant is
6 incorporated in the State of Washington.

7
8 **THE PATENTS-IN-SUIT**

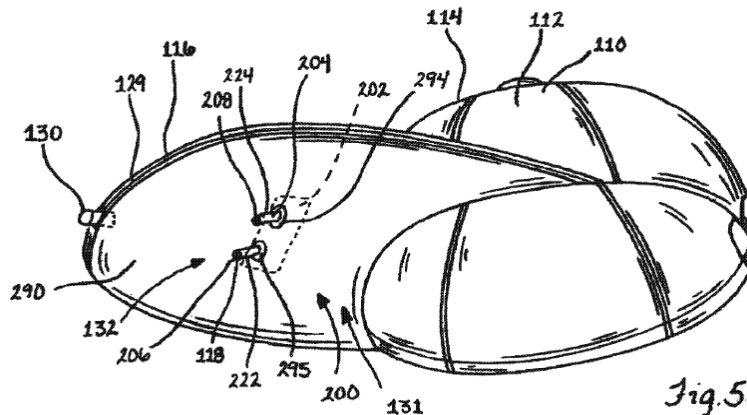
9 8. On October 8, 2013, U.S. Patent No. 8,550,651 (“the ’651 patent”), entitled
10 “LIGHTED HAT,” was duly and legally issued to Michael Waters. The ’651 patent issued
11 from U.S. Patent Application Serial Number 12/714,403 filed on February 26, 2010, and
12 discloses and relates to hands-free lighting devices including light holders for being
13 mounted to headgear. The light holders have a base and a light holding bezel that extends
14 downward and at an angle away from the base. The bezel is configured to hold the light
15 source such that it projects light at an angle downward and away from the base.

16 9. Waters Industries currently owns all right, title and interest in and to the
17 ’651 patent. A copy of the ’651 patent is appended as Exhibit A.

18 10. On March 7, 2017, U.S. Patent No. 9,585,431 (“the ’431 patent”), entitled
19 “LIGHTED HAT,” was duly and legally issued to Michael Waters. The ’431 patent issued
20 from U.S Patent Application Serial Number 14/047,914 filed on October 7, 2013, which
21 is a continuation of the application that issued as the ’651 patent. The ’431 patent also
22 relates to hands-free lighting devices such as lighted hats. The hands-free lighting devices
23 of the ’431 patent include light holders for holding a light source, for example on the
24 underside of the brim of a hat, at a predetermined orientation to project light downward
25 from the brim of the hat.

11. Waters Industries currently owns all right, title and interest in and to the '431 patent. A copy of the '431 patent is appended as Exhibit B.

12. Figure 5 of the Patents in Suit, shown below, illustrates a hands-free lighting device in the form of a hat according to a preferred embodiment of the patents. In the embodiment shown, the hat 110 includes a light holder 200 for mounting LED lights 206 and 208 to the underside of the brim 116 of the hat. The LED lights are oriented to project light downward and at a transverse angle from the brim of the hat thereby providing illumination to an area located closely to the hat and advantageously allowing a wearer to illuminate areas at close working or reading distances.



DEFENDANT’S INFRINGING PRODUCTS

13. Defendant makes, uses, sells, offers for sale and/or imports into the United States baseball style hats having a pair of LED lights affixed to a light holder at a downward inclination to the fore-and-aft axis of a mounting base portion of the light holder so as to project light at a downwardly inclined angle away from the mounting base portion, which is affixed to the underside of the brim of the hat. Defendant markets, sells and/or offers for sale several versions of its lighted hats, which include, for example, the “The Contractor Hat,” “The Contractor Hat 2.0,” “Flat Bill Contractor Hat 2.0,” “The Contractor Hat 3.0,” “The Contractor Hat 4.0,” “4.0 Navy Blue Baseball Cap,” “4.0 Black

1 Baseball Cap,” “4.0 Camo Green Baseball Cap,” “4.0 Navy Blue Mesh Trucker Cap,” “4.0
2 Camo Green Mesh,” “4.0 Black Trucker Mesh,” “Coyote Desert 4.0 Hat,” “Limited
3 Edition ‘Good Boy’ 4.0 Hat,” “Limited Goat Embroidery Design,” and “Trucker Mesh.”
4 Defendant promotes, distributes and sells its lighted hats to consumers through online
5 marketplaces such as Amazon, TikTok, Instagram, and Facebook. Exhibit C contains
6 screen captures showing Defendant’s lighted hats being offered for sale by Defendant on
7 Amazon. Exhibit D contains screen captures showing Defendant’s lighted hats being
8 offered for sale by Defendant on Defendant’s Facebook page. Exhibit E contains screen
9 captures of Defendant’s lighted hats being offered for sale by Defendant on Instagram.
10 Exhibit F contains screen captures of Defendant’s lighted hats being offered for sale by
11 Defendant on TikTok. On information and belief, Defendant also maintains and operates a
12 website located at <https://www.thecontractorhat.com>, through which Defendant advertises,
13 promotes, offers for sale, and sells its lighted hats. Customers in Washington and in this
14 District can purchase Defendant’s lighted hats through these websites. Exhibit G is a screen
15 capture of Defendant’s website where it sells its lighted hats.

16 14. Upon information and belief, all of Defendant’s lighted hats that include
17 LED lights mounted to a light holder at a downward inclination to the fore-and-aft axis of
18 a mounting base portion of the light holder so as to project light at a downwardly inclined
19 angle away from the mounting base portion, which is affixed to the underside of the brim
20 of the hat, infringe the Patents in Suit (“Accused Products”). The Accused Products
21 include but are not limited to Defendant’s “The Contractor Hat,” “The Contractor Hat
22 2.0,” “Flat Bill Contractor Hat 2.0,” “The Contractor Hat 3.0,” “The Contractor Hat 4.0,”
23 “4.0 Navy Blue Baseball Cap,” “4.0 Black Baseball Cap,” “4.0 Camo Green Baseball
24 Cap,” “4.0 Navy Blue Mesh Trucker Cap,” “4.0 Camo Green Mesh,” “4.0 Black Trucker
25 Mesh,” “Coyote Desert 4.0 Hat,” “Limited Edition ‘Good Boy’ 4.0 Hat,” “Limited Goat
26 Embroidery Design,” “Trucker Mesh,” and color and fabric variations thereof.

27 15. Defendant’s Accused Products are designed to be worn on a user’s head, and
28 feature LED lights mounted to the underside of the hat brim. The LED lights are affixed to
a light holder or light mount in a manner to project light in a downward direction away

from the underside of the hat brim. For example, The Contractor Hat shown below includes a light mount that includes a pair of LED lights mounted in a manner to project light in a downward direction away from the underside of the hat brim:



EZ Home “The Home Hat” sold at Amazon.com¹

The other Accused Products include substantially the same light holder securing LEDs at a downward angle of inclination to the mounting base portion of a light holder attached to the bottom surface of the brim portion of the hat. Plaintiff incorporates the above paragraphs herein by reference.

FIRST CAUSE OF ACTION – INFRINGEMENT OF THE ’651 PATENT

16. Plaintiff hereby repeats and re-alleges the allegations contained in paragraphs 1–15, as if fully set forth herein.

17. The ’651 patent is presumed valid under 35 U.S.C. § 282.

¹ https://www.amazon.com/Contractor-hat-EZ-Home-Green/dp/B0BHJPPBZM/?_encoding=UTF8&pd_rd_w=g03bd&content-id=amzn1.sym.5f7e0a27-49c0-47d3-80b2-fd9271d863ca%3Aamzn1.symc.e5c80209-769f-4ade-a325-2eaec14b8e0e&pf_rd_p=5f7e0a27-49c0-47d3-80b2-fd9271d863ca&pf_rd_r=HAJNZEN8ST3SR4Q46GP8&pd_rd_wg=G7l40&pd_rd_r=4e0f0322-bfb7-42a4-8462-6610ae0b8cb1&ref_=pd_gw_ci_mcx_mr_hp_atf_m&th=1 (last visited July 22, 2023)

18. Defendant, by itself, and through its subsidiaries, affiliates, and/or agents, has been, and is, infringing the '651 patent by making, using, offering to sell, selling, and/or importing the Accused Products incorporating the inventions patented in the '651 patent within the United States and within this District, including the subject matter of at least claims 17, 22–23, 25 and 28–30. The Accused Products include, for example, The Contractor Hat products shown in the attached Exhibits C–G, which are representative of the infringing features of all of the Accused Products A claim chart attached as Exhibit H identifies specifically how the Accused Products infringe each asserted claim of the '651 patent, by reference to The Contractor Hat as a representative Accused Product incorporating the patented features of the asserted claims. Upon information and belief, all of Defendant's Accused Products infringe in the same manner as the representative The Contractor Hat.

19. Defendant's infringement of the '651 patent has injured Waters Industries, and Waters Industries is entitled to recover damages adequate to compensate for such infringement pursuant to 35 U.S.C. § 284.

20. On information and belief, Defendant acted egregiously and with willful misconduct in that its actions constituted direct infringement of a valid patent, and this was either known or so obvious that Defendant should have known about it. Defendant had actual notice of the '651 patent and of the infringement alleged herein at least as early as May 10, 2023, when Defendant received Waters Industries' letter identifying the '651 patent and exemplary infringing lighted hats, and by no later than the date it was served with this Complaint. Defendant continues to infringe the '651 patent by making, using, selling, offering for sale and importing into the United States the Accused Products, and it has acted at least in reckless disregard of Waters Industries' patent rights. On information and belief, Defendant will continue its infringement notwithstanding actual knowledge of the '651 patent and without a good faith basis to believe that its activities do not infringe any valid claim of the '651 patent. All infringement of the '651 patent following Defendant's knowledge of the '651 patent is willful, and Waters

1 Industries is entitled to treble damages and attorneys' fees and costs incurred in this
2 action under 35 U.S.C. §§ 284 and 285.

3 21. Defendant's infringement will continue to injure Waters Industries unless
4 the Court enters an injunction prohibiting further infringement of the '651 patent.

5 **SECOND CAUSE OF ACTION – INFRINGEMENT OF THE '431 PATENT**

6 22. Plaintiff hereby repeats and re-alleges the allegations contained in
7 paragraphs 1–15, as if fully set forth herein.

8 23. The '431 patent is presumed valid under 35 U.S.C. § 282.

9
10 24. Defendant, by itself, and through its subsidiaries, affiliates, and/or agents,
11 has been, and is, infringing the '431 patent by making, using, offering to sell, selling,
12 and/or importing the Accused Products incorporating the inventions patented in the '431
13 patent within the United States and within this District, including the subject matter of at
14 least claims 1–3, 6–14, 19 and 22–25. The Accused Products include, for example, The
15 Contractor Hat products shown in the attached Exhibits C–G, which are representative of
16 the infringing features of all of the Accused Products. A claim chart attached as Exhibit I
17 identifies specifically how the Accused Products infringe each asserted claim of the '431
18 patent by reference to The Contractor Hat as a representative Accused Product
19 incorporating the patented features of the asserted claims. Upon information and belief,
20 all of Defendant's Accused Products infringe in the same manner as the representative
21 The Contractor Hat.

22 25. Defendant's infringement of the '431 patent has injured Waters Industries,
23 and Waters Industries is entitled to recover damages adequate to compensate for such
24 infringement pursuant to 35 U.S.C. § 284.

25 26. On information and belief, Defendant acted egregiously and with willful
26 misconduct in that its actions constituted direct infringement of a valid patent, and this

1 was either known or so obvious that Defendant should have known about it. Defendant
2 had actual notice of the '431 patent and of the infringement alleged herein at least as
3 early as May 10, 2023, when Defendant received Waters Industries' letter identifying the
4 '431 patent and exemplary infringing lighted hats, and by no later than the date it was
5 served with this Complaint. Defendant continues to infringe the '431 patent by making,
6 using, selling, offering for sale and importing into the United States the Accused Products
7 and it has acted at least in reckless disregard of Waters Industries' patent rights. On
8 information and belief, Defendant will continue its infringement notwithstanding actual
9 knowledge of the '431 patent and without a good faith basis to believe that its activities
10 do not infringe any valid claim of the '431 patent. All infringement of the '431 patent
11 following Defendant's knowledge of the '431 patent is willful, and Waters Industries is
12 entitled to treble damages and attorneys' fees and costs incurred in this action under 35
13 U.S.C. §§ 284 and 285.

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JURY DEMAND

Waters Industries demands trial by jury of all issues triable of right by a jury.

PRAYER FOR RELIEF

WHEREFORE, Waters Industries prays for:

- A. Judgment that the '651 patent and '431 patent are each valid, enforceable, and infringed by Defendant;
- B. Judgment that Defendant's acts of patent infringement are willful;
- C. A permanent injunction enjoining Defendant, its officers, agents, servants, employees, subsidiaries and affiliated companies, and those persons acting in active concert or participation therewith, from engaging in the aforesaid unlawful acts of patent infringement;

1 D. An award of damages arising out of Defendant's acts of patent
infringement, together with pre-judgment and post-judgment interest;

2 E. Judgment that the damages so adjudged against Defendant be trebled
3 in accordance with 35 U.S.C. § 284;

4 F. An award of Waters Industries' attorneys' fees, costs, and expenses
5 incurred in this action in accordance with 35 U.S.C. § 285; and

6 G. Such other and further relief as the Court may deem just and proper.
7

8 DATED this 26th day of July, 2023.
9

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