

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:24-cv-1212

UATP IP, LLC,
A Texas Limited Liability Company,
Plaintiff,

v.

ASCENT AIRPARKS, LLC DBA AIRCITY 360,
A Colorado Limited Liability Company,
Defendant.

COMPLAINT AND JURY DEMAND

Plaintiff UATP IP, LLC (“UATP”) for its Complaint against Defendant Ascent AirParks, LLC dba AirCity 360 (“AirCity”), states and alleges as follows:

I. THE PARTIES

1. UATP IP, LLC is a Texas limited liability company having a principal place of business at 5900 Balcones Dr., Suite 100, Austin, Texas 78731.

2. Ascent Airparks, LLC dba AirCity360 is a Colorado limited liability company having a principal place of business at 225 Spectrum Loop, Colorado Springs, Colorado 80921.

II. JURISDICTION AND VENUE

3. This action arises under the Patent Act, 35 U.S.C. §§ 101, et seq. The infringing acts of AirCity, as complained of herein, were committed in this District and have caused and continue to cause UATP injury in this District. The Court has original jurisdiction over the parties and the claims asserted in this action pursuant to 28 U.S.C. §§ 1331 and 1338.

4. This Court has general and specific personal jurisdiction over AirCity because AirCity has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400 because AirCity has a regular and established place of business in this District and has committed acts of infringement in this District.

III. THE PATENT-IN-SUIT

6. U.S. Patent No. 11,850,529 (the “’529 Patent”) titled “Indoor Zip Coaster With Stations” was filed on December 19, 2019, and claims priority to Provisional Application No. 62/782,546, filed on December 20, 2018. The United States Patent and Trademark Office (“USPTO”) duly and legally issued the ’529 Patent on December 26, 2023. A copy of the ’529 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

7. UATP owns all right, title, and interest in and to the ’529 Patent.

8. Independent claim 1 of the ’529 Patent is representative of the subject matter of the ’529 Patent and is set forth in its entirety below:

1. An indoor zip coaster, comprising:
 - (a) A zip coaster rail suspended above ground and forming a closed loop;
 - (b) At least one trolley located on the rail, the trolley being adapted for a rider to be suspended under the trolley, the trolley having wheels structured and arranged to permit the trolley to ride along the rail;
 - (c) A first station located along the rail at a first height;
 - (d) A second station located along the rail at a second height, the second height being different than the first height;
 - (e) The rail having plural sections and plural incline and decline portions, the first station containing a first section, the second station containing a second section, the trolley and rail being structured and arranged to permit the trolley and the rider suspended under the trolley to move along the rail from the first section

to the second section, the first station containing a first station incline portion and a first station decline portion the first station incline portion and the first station decline portion forming a first station apex, said first station apex configured to permit the trolley to continuously move along the rail through the first station, the second station containing a second station incline portion and a second station decline portion the second station incline portion and second station decline portion forming a second station apex, said second station apex configured to permit the trolley to continuously move along the rail through the second station, with the trolley traversing the respective incline portion of one of the stations before traversing the respective decline portion of the one station;

(f) Each of the first and second stations containing a ramp for the rider to climb upward while the rider is coupled to the trolley while the trolley rides along the rail, the ramp contained within the first station being different than the ramp contained within the second station, the respective decline portion of rail of a section extending from one of the first and second stations to the other of the first and second stations.

IV. GENERAL ALLEGATIONS

9. UATP is affiliated with Urban Air Adventure Parks (“Urban Air”), which is an indoor adventure park that invests in helping children learn, play, and grow.

10. Urban Air currently has over 230 parks open or in development, and the Urban Air franchise was ranked #1 in their category by Entrepreneur Magazine’s Franchise 500 four years in a row.

11. Urban Air currently offers children an extensive list of attractions at its parks, including trapeze, indoor skydiving, laser tag, and go-karts, and Urban Air is constantly developing innovative and exciting new attractions.

12. In 2018, Mr. Michael Browning, the Chief Executive Officer, and Founder of Urban Air, conceived of an innovative idea for an indoor zip coaster.

13. On December 20, 2018, Mr. Browning applied for a provisional patent application and formally filed a utility application on December 19, 2019.

14. In or around November 2020, Urban Air learned that AirCity purchased an indoor air coaster called The 360 Air Coaster (“Accused System”), which, upon information and belief, AirCity intended to install at its Colorado Springs location.

15. Shortly thereafter, Urban Air provided written notice to AirCity, in a letter entitled “Notice of Patent infringement of Urban Air’s Intellectual Property Rights,” that the Accused System violates Urban Air’s (now UATP’s) intellectual property rights. A copy of the letter is attached as Exhibit 2 and is incorporated herein by reference in its entirety. The letter further explained that Urban Air filed a patent application related to an indoor air coaster and enclosed a copy of the application.

16. AirCity did not respond to the letter, but, upon information and belief, AirCity received the letter.

17. Upon information and belief, AirCity monitored Urban Air’s patent application but still installed the Accused System in or around March 2021 at its location in Colorado Springs and has used the same since.

18. AirCity’s use of the Accused System directly infringes one or more of the ’529 Patent claims. More specifically and without limitation, AirCity has been and is directly infringing, either literally or under the doctrine of equivalents, at least Claims 1 and 2 of the ’529 Patent by use of the Accused System. A claim chart further detailing infringement of these claims of the ’529 Patent is attached as Exhibit 3 and incorporated herein by reference in its entirety.

V. FIRST CLAIM FOR RELIEF
(Patent Infringement Under 35 U.S.C. § 271(a) – U.S. Patent No. 11,850,529)

19. The allegations set forth in the preceding paragraphs are incorporated herein by reference.

20. With knowledge of the '529 Patent, AirCity, directly and literally, or in the alternative under the doctrine of equivalents, infringes one or more of the claims of the '529 Patent, including claims 1 and 2, in violation of 35 U.S.C. § 271(a), in this District by using the Accused System.

21. AirCity's infringement of the '529 Patent has been willful since the Accused System was first operated and continues to be willful.

22. Because of AirCity's infringement of the '529 patent, UATP has suffered and will continue to suffer damages.

23. Because of AirCity's infringement of the '529 Patent, UATP has suffered and will continue to suffer irreparable harm in this District.

VI. PRAYER FOR RELIEF

WHEREFORE, UATP prays for judgment in its favor and against AirCity as follows:

- a. That AirCity has infringed one or more claims of the '529 Patent;
- b. That AirCity, its officers, directors, agents, servants, employees, privies, representatives, attorneys, parent and subsidiary corporations or other related entities, successors, assigns, licensees, retail distributors, and all persons in active concert or participation with any of them, be enjoined from infringing the '529 Patent;

- c. That UATP be awarded damages in an amount to be determined at trial, including provisional remedies under 35 U.S.C. § 154(d), for AirCity’s infringing activities, which are no less than a reasonable royalty;
- d. That UATP be awarded treble damages by reason of any willful, wanton and deliberate infringement found under 35 U.S.C. § 284;
- e. That UATP be awarded its pre-judgment and post-judgment interest;
- f. That UATP be awarded its costs and expenses of suit, including expert witness fees;
- g. That the Court determine this case is exceptional and award UATP its attorneys’ fees under 35 U.S.C. § 285; and
- h. That UATP be awarded other and further relief as the Court deems appropriate and just.

VII. JURY DEMAND

UATP demands a trial by jury on all issues so triable.

DATED: May 2, 2024.

Respectfully Submitted,

s/Andrew S. Green

Andrew S. Green
SNELL & WILMER L.L.P.
1200 17th Street, Suite 1900
Denver, CO 80202
Telephone: (303) 634-2000
Facsimile: (303) 634-2020
Email: asgreen@swlaw.com

David G. Barker (Application for Admission
Forthcoming)

Daniel M. Staren (Application for Admission
Forthcoming)

SNELL & WILMER L.L.P.

One East Washington Street, Suite 2700

Phoenix, AZ 85004

Telephone: (602) 382-6000

Facsimile: (602) 382-6070

Email: dbarker@swlaw.com

dstaren@swlaw.com

Attorneys for Plaintiff UATP IP, LLC