

Cromer NSW 2099, Australia. Denneroll Industries markets and sells a line of spinal orthotic devices and is the exclusive licensee of Denneroll Holdings for U.S. Patent No. 11,419,440.

3. Defendant ChiroLux LLC is a limited liability company organized under the laws of Washington with a principal place of business at 1625 W 4th Ave, Lower Level 200, Spokane, WA 99201.

4. Defendant markets and sells a line of chiropractic devices which are the accused instrumentalities in this case.

5. Defendant operates a website at <https://www.chiroluxtables.com/>. Defendant sells what it calls the “ChiroLux Curv” and describes as “a cervical denneroll style neck alignment device,” including through its website at <https://www.chiroluxtables.com/products/chirolux-curv>. The ChiroLux Curv, as sold through Defendant’s website, is an accused instrumentality.

6. Defendant operates a storefront on Amazon.com at <https://www.amazon.com/s?me=A2ATZV6CP6LOPF&marketplaceID=ATVPDKIKX0DER>. Defendant sells what it calls the ChiroLux Curv and describes as “a cervical denneroll style neck alignment device,” through Amazon.com at <https://www.amazon.com/ChiroLux-Cervical-Corrector-Chiropractic-Denneroll/dp/B09F7PH4QR>. The ChiroLux Curv, as sold through Amazon.com, is an accused instrumentality.

II. JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code (the “Patent Act”).

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338.

9. Defendant has sold the ChiroLux Curv into the Southern District of Texas. Defendant has shipped the ChiroLux Curv to the Southern District of Texas. Defendant has fulfilled an order, placed through its website at <https://www.chiroluxtables.com/>, by shipping the ChiroLux Curv to the Southern District of Texas.

10. Defendant's website, at <https://www.chiroluxtables.com/pages/distributors>, lists Parker University as a distributor. Parker University has a principal place of business in Texas. Thus, Defendant utilizes a distributor in Texas.

11. On information and belief, Defendant has repeatedly sold the ChiroLux Curv into Texas and into this District via its website, Texas-based distributor and/or Amazon.com. The factual contentions in this paragraph will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

12. Defendant has committed direct and/or indirect patent infringement in this District by selling its ChiroLux Curv product into this District.

13. Defendant has committed acts specifically directed to Texas, generally, and to the Southern District of Texas, specifically. Thus, Defendant has purposefully availed itself of the laws of Texas, generally, and of the Southern District of Texas, specifically. This Court properly has personal jurisdiction over Defendant. The factual contentions in this paragraph will likely have additional evidentiary support after a reasonable opportunity for further investigation or discovery.

14. The Court has personal jurisdiction over the parties, and venue is proper in this District because Defendant is subject to personal jurisdiction in this District. *See, e.g., Versata Software, Inc. v. Internet Brands, Inc.*, No. 2:08-cv-313, 2009 WL 3161370, at *2 (E.D. Tex. Sept. 30,

2009) (citing *Trintec Indus., Inc. v. Pedre Promotional Prods., Inc.*, 395 F.3d 1275, 1280 (Fed. Cir. 2005)).

III. FACTUAL BACKGROUND

Plaintiffs Denneroll Holdings and Denneroll Industries

15. Denneroll is in the business of marketing and selling a line of products for effective spinal health care. Denneroll® products are sold in numerous countries around the world, including the United States, Australia, New Zealand and the United Kingdom, and are purchased by chiropractors, patients and others for use in connection with the prevention and treatment of poor spinal health.

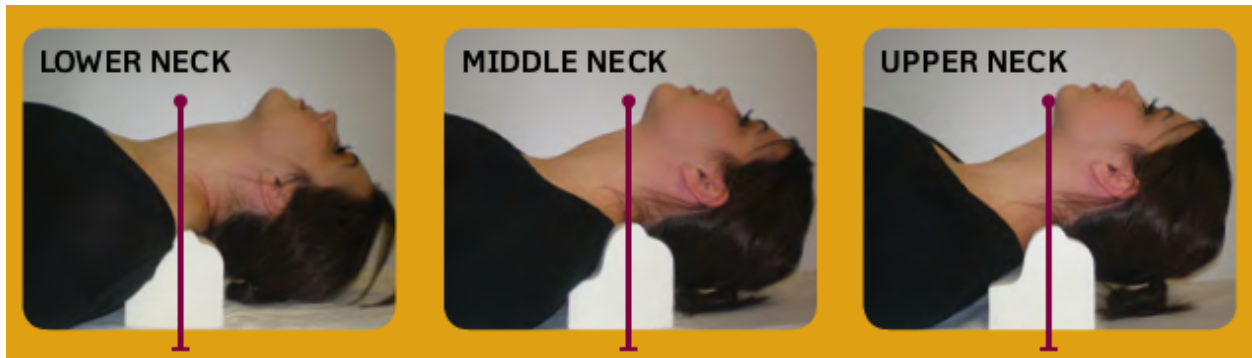
16. One of Denneroll's products is known commercially as the Cervical Denneroll device, which is available in different sizes (large, medium and small) as shown in the below image:



Plaintiffs' Cervical Denneroll orthotic devices

17. The Cervical Denneroll products are cervical orthotic devices for relieving pain and muscle tension associated with abnormal curvature of a person's neck, or abnormal Cervical Lordosis.

18. The Cervical Denneroll orthotic devices can be used for treating various portions of a person's neck and are placed between the neck and an underlying surface during use, as demonstrated in the below image:



Plaintiffs' Cervical Denneroll orthotic devices during use

19. The Cervical Denneroll orthotic device was invented by Dr. Adrian Dennewald and is the subject of U.S. Patent No. 11,419,440 entitled "Orthotic Device" ("the '440 Patent").

20. Denneroll Holdings is the owner by assignment of all rights, title, and interest in and to the '440 Patent, which was duly and legally issued on August 23, 2022 by the United States Patent and Trademark Office. A true and correct copy of the '440 Patent is attached hereto as Exhibit A. The '440 Patent is valid and subsisting.

21. Denneroll Industries is the exclusive licensee of Denneroll Holdings under the '440 Patent, and has the exclusive rights to make, use, offer to sell and sell within the United States, and to import into the United States, the patented invention of the '440 Patent.

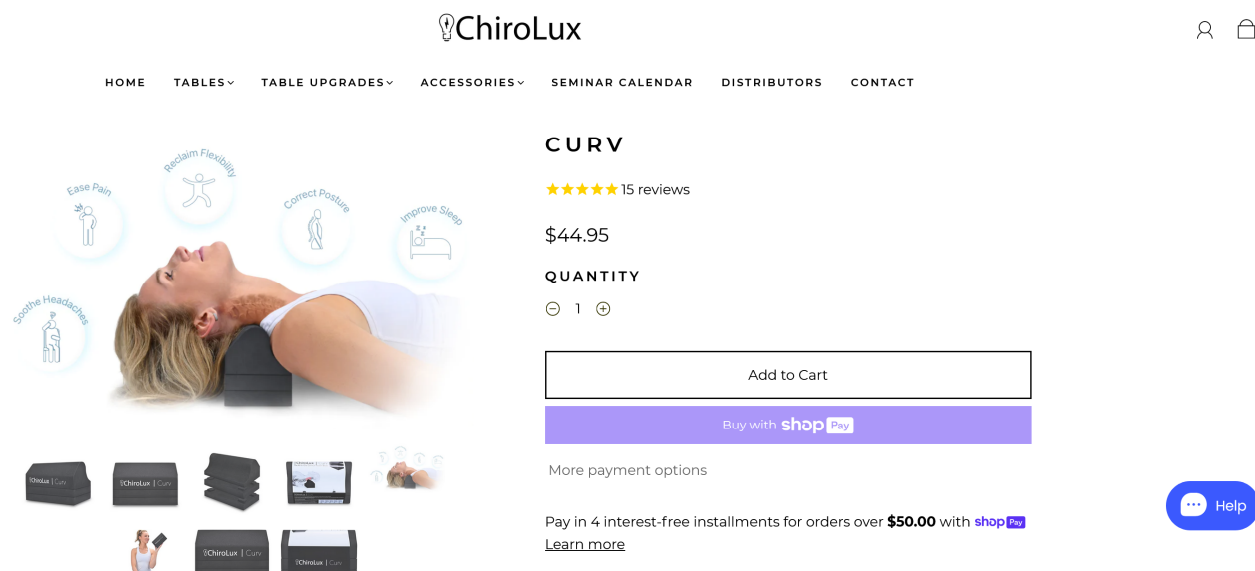
22. Denneroll has never granted any rights under the '440 Patent to Defendant.

23. Denneroll marks the Cervical Denneroll orthotic devices with the '440 Patent in accordance with the Patent Marking Statute, 35 U.S.C. § 287.

Defendant and its Willful Infringement of the '440 Patent

24. Defendant is in the business of selling products and services for chiropractors and their patients.

25. Defendant offers for sale and sells the ChiroLux Curv through its website at <https://www.chiroluxtables.com/products/chirolux-curv?variant=39668426145875>. Below is a partial screenshot of Defendant's website:



26. Defendant's ChiroLux Curv product, as sold through its website, infringes at least claim 15 of the '440 Patent, as shown in the claim chart attached hereto as Exhibit B.

27. Defendant offers for sale and sells the ChiroLux Curv through Amazon.com at <https://www.amazon.com/ChiroLux-Cervical-Corrector-Chiropractic-Denneroll/dp/B09F7PH4QR>. Below is a partial screenshot from the URL identified in this paragraph:

The screenshot displays the Amazon product page for the ChiroLux Curv cervical neck traction device. The product is priced at \$44.99 and has a 4.3-star rating from 95 reviews. The product description highlights its design by chiropractors, its role in restoring balance to the spine, and its adjustability. The page also features a Prime membership badge, a 'FREE delivery Saturday, September 30' offer, and an 'Add to Cart' button.

28. Defendant’s ChiroLux Curv product, as sold through Amazon.com, infringes at least claim 15 of the ‘440 Patent, as shown in the claim chart attached hereto as Exhibit B.

29. Defendant has used, offered for sale and sold within the United States, and continues to use, offer for sale and sell within the United States, orthotic devices that infringe one or more claims of the ‘440 Patent, including Defendant’s ChiroLux Curv.

30. Defendant received actual notice of the ‘440 Patent and of its infringement thereof on or about May 31, 2023, by way of having received from Amazon a copy of a letter dated May 25, 2023, from counsel for Denneroll to Amazon.com, Inc.

31. Defendant received actual notice of the ‘440 Patent and of its infringement thereof on or about September 14, 2023, by way of having received from Amazon a copy of an Allegation of

Infringement filed via Amazon's electronic infringement reporting system on September 14, 2023, in connection with ASIN No. B09F7PH4QR for the ChiroLux Curv.

32. Defendant had constructive notice of the '440 Patent at least as early as the date Denneroll began marking the Cervical Denneroll device with the '440 Patent number pursuant to the Patent Marking Statute.

33. Despite having notice of its infringement, Defendant has continued to offer for sale and sell within the United States orthotic devices that infringe one or more claims of the '440 Patent, including Defendant's ChiroLux Curv products.

34. Despite having notice of its infringement, Defendant has continued to import into the United States orthotic devices that infringe one or more claims of the '440 Patent, including Defendant's ChiroLux Curv products.

**IV.
FIRST COUNT – DIRECT INFRINGEMENT OF THE '440 PATENT**

35. The allegations of all preceding Paragraphs are re-alleged and incorporated by reference as if set forth fully herein.

36. Defendant has infringed one or more claims of the '440 Patent by at least one of making, using, offering to sell, and selling within the United States Defendant's ChiroLux Curv products. Such conduct by Defendant is without Denneroll's consent.

37. To the extent Defendant's ChiroLux Curv products are made outside of the United States, Defendant has infringed one or more claims of the '440 Patent by importing into the United States Defendant's ChiroLux Curv products. Such conduct by Defendant is without Denneroll's consent.

38. Defendant's conduct complained of herein constitutes direct patent infringement, such infringement being literal and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(a).

39. By describing the ChiroLux Curv as "a cervical denneroll style neck alignment device," Defendant demonstrates knowledge of, and knowingly trades on, Denneroll's innovation and the '440 Patent. Defendant's infringement is knowing and willful.

40. As a direct and proximate result of Defendant's infringement of the '440 Patent, Denneroll has been and continues to be irreparably harmed, and has suffered and continues to suffer damages. Denneroll is entitled to recover damages adequate to compensate it for Defendant's infringement in an amount to be determined at trial.

41. Denneroll will continue to be harmed and damaged by Defendant's infringement of the '440 Patent until Defendant is enjoined from such infringement by the Court.

V.

SECOND COUNT – INDIRECT INFRINGEMENT OF THE '440 PATENT

42. The allegations of all preceding Paragraphs are re-alleged and incorporated by reference as if set forth fully herein.

43. Defendant has actively induced others to infringe one or more claims of the '440 Patent by actively inducing others to at least one of use, offer to sell, and sell within the United States Defendant's ChiroLux Curv products. For example, Defendant has induced its customers to use, within the United States, Defendant's ChiroLux Curv products. Defendant has induced Parker University, its Texas distributor, and others, to offer to sell and sell within the United States Defendant's ChiroLux Curv products. Such conduct by Defendant is without Denneroll's consent.

44. Defendant's conduct complained of herein constitutes indirect patent infringement, such infringement being literal and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(b). Defendant's infringement is knowing and willful.

45. As a direct and proximate result of Defendant's infringement of the '440 Patent, Denneroll has been and continues to be irreparably harmed, and has suffered and continues to suffer damages. Denneroll is entitled to recover damages adequate to compensate it for Defendant's infringement in an amount to be determined at trial.

46. Denneroll will continue to be harmed and damaged by Defendant's infringement of the '440 Patent until Defendant is enjoined from such infringement by the Court.

DEMAND FOR JURY

47. Denneroll demands a jury trial of all issues in this action so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER

48. For these reasons, Denneroll prays for judgment against Defendant and requests that the Court:

- (a) Renders judgment that Defendant has infringed the '440 Patent;
- (b) Renders judgment that Defendant's infringement of the '440 Patent is willful;
- (c) Issues preliminary and permanent injunctions restraining Defendant, and those in active concert or participation with Defendant, from further infringement of the '440 Patent;
- (d) Awards compensatory damages in an amount to be determined at trial;

- (e) Orders an accounting of Defendant's sales of and profits from its infringement of the '440 Patent;
- (f) Awards treble damages pursuant to 35 U.S.C. § 284;
- (g) Awards Denneroll's full costs of this action;
- (h) Awards pre-judgment and post-judgment interest as allowed by law;
- (i) Declares this case exceptional and awards reasonable attorney fees to Denneroll pursuant to 35 U.S.C. § 285; and
- (j) Awards all other relief, in law or in equity, to which Denneroll may be entitled.

DATED this 20th day of February 2024.

Respectfully submitted,

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