

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF FLORIDA**

<b>Elaut N.V.,</b>	)	
	)	
Plaintiff,	)	Civil Action No. <u>6:24-cv-1499</u>
	)	
v.	)	
	)	
<b>Remark Industries LLC,</b>	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	

**PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT  
INFRINGEMENT**

Plaintiff Elaut N.V., by and through its attorneys, hereby alleges for its patent infringement Complaint against Defendant Remark Industries LLC (“Remark”) as follows:

**PRELIMINARY STATEMENT**

1. This is an action for infringement of Plaintiff’s United States Patent No. 8,251,369 (the “369 Patent”) under the Patent Act, 35 U.S.C. § 271, based on Defendant’s unauthorized commercial manufacture, use, importation, offer for sale, and sale of certain crane amusement devices in the United States.

2. Defendant has infringed and continues to infringe, has induced and continues to induce infringement of, and has contributorily infringed and continues to contributorily infringe, one or more claims of the '369

Patent at least by making, using, importing, selling and offering to sell certain cranes in the United States.

3. Elaut N.V owns the right, title and interests to the '369 Patent, which was duly and legally issued by the United States Patent and Trademark Office (USPTO).

### **PARTIES**

4. Plaintiff Elaut N.V. is a corporation organized and existing under the laws of Belgium with its principal place of business at Passtraat 223, 9100 Sint-Niklaas, Belgium.

5. Plaintiff's affiliate Coast to Coast Entertainment LLC, located at 2201 4th Ave N., Lake Worth Beach, FL 33461 manufactures and sells crane amusement games in the United States that are covered by the '369 Patent.

6. Upon information and belief, defendant Remark Industries LLC is a limited liability corporation organized under the laws of Florida and has an address at 7177 N Atlantic Ave. Cape Canaveral, Florida 32920.

### **JURISDICTION AND VENUE**

7. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271 *et seq.*

8. This court has subject matter jurisdiction over the matters asserted

herein under 28 U.S.C. §§ 1331 and 1338(a).

9. The Defendant is subject to this Court's specific personal jurisdiction pursuant to due process by virtue of at least its being a citizen of the state, substantial business activities conducted in this forum, directly and/or through intermediaries. On information and belief, these activities include being organized under the law of the State of Florida, having published addresses in Florida, having solicited business in the State of Florida, having transacted business within the State of Florida, and attempted to derive financial benefit from residents of the State of Florida, including benefits directly related to the claimed patent infringement causes of action set forth herein.

10. On information and belief, Defendant directly and/or through intermediaries has advertised, offered to sell, sold and/or distributed products made that used the patented technology in this District

11. On information and belief, Defendant has purposefully and voluntarily placed its accused crane games with nationwide distributors including Betson, Moss Distribution and Player One Amusement Group with the expectation that the infringing products will be used and sold in this District.

12. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1400(b) at least because the Defendant has committed acts of infringement in this District.

**THE PATENT IN SUIT**  
**U.S. NO. 8,251,369**

13. United States Patent No. 8,251,369 entitled “Game Machine” claims priority to Belgian Application No. 2010/0043 filed January 25, 2010. Plaintiff is the sole owner of the ‘369 Patent. A true and correct copy of the ‘369 Patent is attached as Exhibit A.

14. The ‘369 Patent issued on August 28, 2012 and claims patent-eligible subject matter and is valid and enforceable.

15. Defendant is not licensed to the ‘369 Patent, either expressly or implicitly.

16. The ‘369 Patent generally relates to a pick-up or crane style amusement device that has at least one upright translucent panels, behind which are provided LEDs. A central controller is programmed to illuminate the LEDs and impart a determined color to the panels.

17. Claim 1 one of the ‘369 Patent recites:

Game machine, comprising a housing with a number of upright walls, said housing being adapted to accommodate playing means, in particular

pick-up means for picking up one or more objects;

said upright walls of the housing comprising at least one translucent panel;

a pattern of multicolor LEDs being provided on the inner side of the housing behind said at least one translucent panel, said multicolor LEDs being connected to a control unit for controlling the color emitted by each multicolor LED,

said control unit and said at least one translucent panel being adapted to impart a determined impression of color to the at least one panel.

### **THE ACCUSED PRODUCTS**

18. Defendant manufactures, has manufactured, sells, offers to sell, facilitates to sell, facilitates to offer to sell, or imports crane devices including those sold under the brands “META CLAW” and “BIG CHOICE” (the “Accused Products”).

19. These accused devices are “game machines” that have a “number of upright walls” that enclose “pick-up means,” namely a crane device, as recited in claim 1 of the ‘369 Patent.

20. At least one the upright walls of the accused devices include a “translucent panel” and behind the translucent panel are patterns of multicolor LEDs that are connected to a control unit for controlling the

color emitted by each multicolor LED or an equivalent as recited in claim 1 of the '369 Patent.

21. The control unit and the translucent panel of each accused device are adopted to impart a determined impression of color to at least one panel as recited in claim 1 of the '369 Patent.

22. Pursuant to 35 U.S.C. § 287 Plaintiff provided notice of infringement to Defendant in a communication dated February 2, 2024 that also included a copy of the '369 Patent asserted and an identification of the specific products accused of infringement. Defendant responded to Plaintiff's communication and *inter alia*, has denied infringement.

**COUNT I: DIRECT INFRINGEMENT ON THE '369 PATENT**

23. Paragraphs 1-22 are incorporated by reference as if fully set forth herein.

24. Defendant directly infringes the '369 Patent by manufacturing, selling, and/or offering to sell the Accused Products in the United States, and by importing the Accused Products into the United States.

25. Defendant has continued to manufacture, offer to sell, sell and import the Accused Products that practice the invention claimed in the '369 Patent.

26. The actions set forth in Paragraph above constitute infringement

of the '369 Patent under 35 U.S.C. § 271(a).

**COUNT II**  
**INDUCEMENT OF INFRINGEMENT OF THE '369 PATENT**

27. Paragraphs 1-22 are incorporated by reference as if fully set forth herein.

28. On information and belief, Defendant actively induces infringement of the '369 Patent by selling the Accused Products wherein their purchasers directly infringe.

29. On information and belief, Defendant provides instructions to configure the control modules of the Accused Product so that they will infringe the '369 Patent.

30. On information and belief, Purchasers of Accused Cranes following the instruction provided by Defendant to configure products purchased from Defendant in a manner that infringes the '369 Patent.

31. Accordingly, Defendant is liable for inducing of infringement of the '369 Patent under 35 U.S.C. § 271(b).

**COUNT III.**  
**CONTRIBUTORY INFRINGEMENT ON THE '369 PATENT**

32. Paragraphs 1-22 are incorporated by reference as if fully set forth herein.

33. Defendant has offered for sale the Accused Products knowing they

have been especially made and adapted for use to infringe the '369 Patent, and as adapted, are not staple articles of commerce suitable for substantial non-infringing use.

34. Purchasers of Accused Products from Defendant configure the Accused Products in a manner that infringes the '369 Patent.

35. By selling and offering to sell the Accused Products to distributors and consumers, Defendant is liable for contributory infringement of the '369 Patent under 235 USC 271(c).

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff requests judgment against Defendant as follows:

A. Adjudging that Defendant has directly infringed, actively induced infringement of, and/or contributorily infringed the '369 Patent in violation of 35 U.S.C. § 271(a), 271(b), and/or 271(c);

B. Granting an injunction preliminarily and permanently enjoining Defendant, their employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns and all of those in active concert and participation with any of the foregoing persons or entities from infringing, contributing to the infringement of, or inducing infringement of the '369 Patent pursuant to 35 U.S.C. §283;

C. Ordering Defendant to account and pay damages adequate to compensate for Defendant's infringement of the '369 Patent, including pre-filing damages, pre-judgment damages and post-judgment interest and costs, pursuant to 35 U.S.C. § 284;

D. That Plaintiff be awarded any and all other relief that this Court deems equitable and

### **JURY DEMAND**

Plaintiff demands trial by jury as to all causes of action so triable.

Dated: August 16, 2024    Respectfully Submitted,

/s/Mark F. Warzecha

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