

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TELEBRANDS CORPORATION,

Plaintiff,

v.

EMSCO, INC., D/B/A EMSCO GROUP

Defendant.

Civil Action No. 1:24-cv-11

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Telebrands Corporation (“Plaintiff” or “Telebrands”) hereby brings this Complaint for patent infringement against Defendant Emsco, Inc. d/b/a Emsco Group (“Defendant” or “Emsco”) and alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement of U.S. Patent Nos. 9,581,272 (the “’272 Patent”) and 10,174,870 (the “’870 Patent”) (collectively, the “Asserted Patents”) in violation of the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*

THE PARTIES

2. Plaintiff Telebrands Corporation is a corporation organized and existing under the laws of the State of New Jersey, having a place of business at 79 Two Bridges Road, Fairfield, New Jersey, 07004.

3. Upon information and belief, Defendant Emsco, Inc. d/b/a Emsco Group is a corporation organized and existing under the laws of the State of Pennsylvania, having a principal

place of business at 306 Shenango Street, Girard, Pennsylvania 16147. Upon information and belief, Emsco is doing business throughout the United States and within the State of Pennsylvania.

JURISDICTION AND VENUE

4. Telebrands repeats, realleges, and incorporates by reference the allegations set forth in Paragraphs 1 through 3 as if set forth herein in their entirety.

5. This Court has subject matter jurisdiction over the patent infringement claims set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338.

6. Upon information and belief, Emsco is engaged in the business of using in, offering for sale in, selling in, and/or importing into, the United States expandable hoses, including within this District, and is incorporated in this District.

7. Emsco is subject to the general personal jurisdiction of courts of general jurisdiction in Pennsylvania because Emsco is incorporated in Pennsylvania and has its principal place of business in Pennsylvania. *See Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014). As such, this Court may exercise jurisdiction over Emsco pursuant to Rule 4(k)(1) of the Federal Rules of Civil Procedure.

8. Emsco is also subject to specific jurisdiction in this case because at least part of Telebrands' claims arise from Emsco's activities in the State of Pennsylvania and this Judicial District.

9. Upon information and belief, Emsco has its principal place of business in the State of Pennsylvania and is incorporated in the State of Pennsylvania. Therefore, venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), (c) and (d) and 1400(b).

10. Upon information and belief, Emsco has an address in Girard, Erie County, in the Western District of Pennsylvania. Therefore, venue is proper within this District.

THE PATENTS-IN-SUIT

11. Telebrands repeats, realleges, and incorporates by reference the allegations set forth in Paragraphs 1 through 10 as if set forth herein in their entirety.

12. Telebrands is the owner of the '272 Patent, entitled "Garden Hose," which the United States Patent and Trademark Office ("USPTO") duly and lawfully issued on February 28, 2017. A true and correct copy of the '272 Patent is attached hereto as **Exhibit A**.

13. Telebrands is the owner of the '870 Patent, entitled "Expandable and Contractible Garden Hose," which the USPTO duly and lawfully issued on January 8, 2019. A true and correct copy of the '870 Patent is attached hereto as **Exhibit B**.

GENERAL ALLEGATIONS AND BACKGROUND

14. Telebrands repeats, realleges, and incorporates by reference the allegations set forth in Paragraphs 1 through 13 as if set forth herein in their entirety.

15. Telebrands is a direct marketing company and is engaged in the business of marketing and selling a wide variety of consumer products, through direct response advertising, catalogue, mail order, and Internet sales, and through national retail stores.

16. For over thirty years, Telebrands has been a leading developer and marketer of consumer products. Telebrands is widely known through the retail industry for its success in driving retail sales through its nationwide advertising programs. Telebrands expends significant human and financial resources cultivating relationships with a wide variety of retailers, *e.g.*, large retail chains, catalogs, and retail websites, which buy Telebrands' products.

17. For over ten years, Telebrands has been marketing and selling its expandable hose, which it currently sells under the trademark POCKET HOSE® and other related marks. The POCKET HOSE® hose is light in weight, does not kink when unwrapped or uncoiled, can expand

up to three times its length when pressurized water is flowing through it, and can automatically contract to a reduced length when the water is released from it. The POCKET HOSE® hose has been and continues to be a massive success in the United States. Telebrands is the owner of all intellectual property rights in connection with the POCKET HOSE® hose including, without limitation, the patent rights asserted in this Complaint.

18. Indicative of the ingenuity and popularity of Telebrands' POCKET HOSE® hose, Emsco has impermissibly promoted and sold and continues to impermissibly promote and sell infringing expandable hose products embodying the inventions protected by the Asserted Patents. Specifically, Emsco impermissibly promotes and sells the Expandable Hose, which comes in various sizes and grades, including 50 feet and 100 feet in standard and commercial grades (hereinafter the "Accused Products"). Screen shots of Emsco's website, <https://www.emscogroup.com/products/lawn-and-garden/grow-products/bloomers-uncommon-floral-planters/1535-50-50foot-expandable-hose-857-detail>, Home Depot's website, <https://www.homedepot.com/p/Emsco-3-4-in-Dia-x-100-ft-Expandable-Hose-with-Spray-Nozzle-1545-100-1/305489504>, Walmart's website, <https://www.walmart.com/ip/EMSCO-100-ft-Commercial-Grade-Expandable-Hose-with-Spray-Nozzle/113626974> and Amazon's website, <https://www.amazon.com/Emsco-Group-1545-100-Expandable-Nozzle/dp/B079Z8K53M?th=1>, promoting the Accused Products are attached hereto as **Exhibits C, D, E and F**.

COUNT I
(INFRINGEMENT OF THE '272 PATENT)

19. Telebrands repeats, realleges, and incorporates by reference the allegations set forth in Paragraphs 1 through 18 as if set forth herein in their entirety.

20. Emsco has directly infringed and continues to directly infringe, either literally or under the doctrine of equivalents, at least Claim 1 of the '272 Patent by making, using, offering

for sale, and/or selling within the United States, and/or importing into the United States the Accused Products in violation of 35 U.S.C. § 271(a).

21. For example, as set forth in detail in the attached preliminary and exemplary claim chart provided in **Exhibit G**, the Accused Products include all of the limitations of at least Claim 1 of the '272 Patent and, therefore the Accused Products directly infringe at least Claim 1 of the '272 Patent under 35 U.S.C. § 271(a).

22. Emsco had knowledge of the '272 Patent since at least on or around March 3, 2023 when Telebrands sent Emsco a cease and desist letter regarding Emsco's infringement of the '272 Patent (among other Telebrands' patents) for Emsco's making, using, offering for sale, selling and/or manufacturing expandable hoses which read on any claims of the '272 Patent, including but not limited to Emsco's 3/4 in. Dia. x 100 ft. Expandable Hose with Spray Nozzle and 3/4 in. Dia x 100 ft. Standard Expandable Water Hose. Therefore, Emsco has known, that selling, offering to sell, manufacturing and importing into the United States the Accused Products constitutes direct infringement of the '272 Patent.

23. Since at least on or around March 3, 2023, Emsco has had actual knowledge of the claims of the '272 Patent, and that the Accused Products infringe one or more of those claims, including through its likely copying of the POCKET HOSE® hose. Upon information and belief, Emsco has taken no steps to remedy any infringement and continues to willfully infringe the '272 Patent.

24. Upon information and belief, Emsco had knowledge of the '272 Patent since at least its issuance on February 28, 2017 due to the massive popularity of Telebrand's POCKET HOSE® hose and previous patent litigations regarding family members of the '272 Patent against other manufacturers of similarly infringing expandable hoses. Upon information and belief, as part of a

customary due diligence before entering the expandable hose market, Emsco should have and likely did review patents covering expandable hoses and should have and likely did review the '272 Patent prior to the filing of this Complaint. Therefore, Emsco should have known, and has known, that selling, offering to sell, and importing into the United States the Accused Products constitutes direct infringement of the '272 Patent.

25. Upon information and belief, since at least the date of the issuance of the '272 Patent, Emsco has had actual knowledge of the claims of the '272 Patent, and that the Accused Products infringe one or more of those claims, including through its likely copying of the POCKET HOSE® hose. Upon information and belief, Emsco has taken no steps to remedy any infringement and continues to willfully infringe the '272 Patent.

26. Telebrands has been and continues to be damaged by Emsco's infringement of the '272 Patent, has been and continues to be irreparably harmed by that infringement, and will suffer additional damages and irreparable harm unless this Court enjoins Emsco from further infringement.

27. Due to Emsco's past and ongoing infringement of the '272 Patent, Telebrands is entitled to monetary damages in an amount to be determined at trial, which may include lost profits but in no event less than a reasonable royalty.

28. Emsco's infringement of at least Claim 1 of the '272 Patent has been and continues to be willful and deliberate. As a result, Telebrands is entitled to increased damages pursuant to 35 U.S.C. § 284, and to attorneys' fees and costs incurred in prosecuting this action pursuant to 35 U.S.C. § 285.

COUNT II
(INFRINGEMENT OF THE '870 PATENT)

29. Telebrands repeats, realleges, and incorporates by reference the allegations set forth in Paragraphs 1 through 28 as if set forth herein in their entirety.

30. Emsco has directly infringed and continues to directly infringe, either literally or under the doctrine of equivalents, at least Claim 1 of the '870 Patent by making, using, offering for sale, and/or selling within the United States, and/or importing into the United States the Accused Products in violation of 35 U.S.C. § 271(a).

31. For example, as set forth in detail in the attached preliminary and exemplary claim chart provided in **Exhibit H**, the Accused Products include all of the limitations of at least Claim 1 of the '870 Patent and, therefore the Accused Products directly infringe at least Claim 1 of the '870 Patent under 35 U.S.C. § 271(a).

32. Emsco had knowledge of the '870 Patent since at least on or around March 3, 2023 when Telebrands sent Emsco a cease and desist letter regarding Emsco's infringement of the '870 Patent (among other Telebrands' patents) for Emsco's making, using, offering for sale, selling and/or manufacturing expandable hoses which read on any claims of the '870 Patent, including but not limited to Emsco's 3/4 in. Dia x 100 ft. Expandable Hose with Spray Nozzle and 3/4 in. Dia x 100 ft. Standard Expandable Water Hose. Therefore, Emsco has known, that selling, offering to sell, manufacturing and importing into the United States the Accused Products constitutes direct infringement of the '870 Patent.

33. Since at least on or around March 3, 2023, Emsco has had actual knowledge of the claims of the '870 Patent, and that the Accused Products infringe one or more of those claims, including through its likely copying of the POCKET HOSE® hose. Upon information and belief,

Emsco has taken no steps to remedy any infringement and continues to willfully infringe the '870 Patent.

34. Upon information and belief, Emsco had knowledge of the '870 Patent since at least its issuance on January 8, 2019 due to the massive popularity of Telebrand's POCKET HOSE® hose and previous patent litigations regarding family members of the '870 Patent against other manufacturers of similarly infringing expandable hoses. Upon information and belief, as part of a customary due diligence before entering the expandable hose market, Emsco should have and likely did review patents covering expandable hoses and should have and likely did review the '870 Patent prior to the filing of this Complaint. Therefore, Emsco should have known, and has known, that selling, offering to sell, and importing into the United States the Accused Products constitutes direct infringement of the '870 Patent.

35. Upon information and belief, since at least the date of the issuance of the '870 Patent, Emsco has had actual knowledge of the claims of the '870 Patent, and that the Accused Products infringe one or more of those claims, including through its likely copying of the POCKET HOSE® hose. Upon information and belief, Emsco has taken no steps to remedy any infringement and continues to willfully infringe the '870 Patent.

36. Telebrands has been and continues to be damaged by Emsco's infringement of the '870 Patent, has been and continues to be irreparably harmed by that infringement, and will suffer additional damages and irreparable harm unless this Court enjoins Emsco from further infringement.

37. Due to Emsco's past and ongoing infringement of the '870 Patent, Telebrands is entitled to monetary damages in an amount to be determined at trial, which may include lost profits but in no event less than a reasonable royalty.

Emsco's infringement of at least Claim 1 of the '870 Patent has been and continues to be willful and deliberate. As a result, Telebrands is entitled to increased damages pursuant to 35 U.S.C. § 284, and to attorneys' fees and costs incurred in prosecuting this action pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Telebrands prays that this Court enter judgment as follows:

- A. that Emsco has infringed and is infringing each of the '272 Patent and the '870 Patent;
- B. that such infringement was and is willful;
- C. preliminarily and permanently enjoining Emsco, its principal, officers, directors, agents, servants, employees, affiliates, successors and assigns, dealers, retailers, distributors, manufacturers, and all others in active concert and/or participation with Emsco, from infringing the '272 Patent and the '870 Patent, pursuant to 35 U.S.C. § 283;
- D. awarding Telebrands damages for Emsco's direct infringement of both the '272 Patent and the '870 Patent, in an amount to be ascertained at trial, including at least a reasonable royalty and/or Emsco's lost profits, together with interest and costs, pursuant to U.S.C. § 284;
- E. trebling the amount of damages for Emsco's infringement of both the '272 Patent and the '870 Patent, pursuant to U.S.C. § 284;
- F. finding the case exceptional and awarding Telebrands reasonable attorneys' fees, pursuant to U.S.C. § 285; and
- G. granting Telebrands such other and further relief in law or in equity as this Court deems just or proper.

DEMAND FOR JURY TRIAL

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

DATED: January 12, 2024

Respectfully submitted,

/s/ Michael J. Zinna

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