

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

HANGZHOU RIGHT PLAY KIDS	)	
PRODUCTS CO., LTD.	)	
Plaintiff,	)	
	)	Case No.
v.	)	
	)	Complaint for Declaratory Judgment
PROGRESSIVE INTERNATIONAL	)	
CORP.,	)	Demand for Jury Trial
Defendant.	)	
	)	

**COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiff Hangzhou Right Play Kids Product Co., Ltd. D/B/A as Zhejiang ASWEETS Kids Product Co., Ltd. (“Right Play” or “Plaintiff”) alleges as follows for its Complaint for Declaratory Judgment against Defendant Progressive International Corp. (“Progressive” or “Defendant”).

**NATURE OF THE ACTION**

1. This is an action for declaratory judgment that U.S. Patent No. 7,678,271 (“the ‘271 Patent”) is not infringed by Right Play’s products and invalid pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*, and for such other relief as the Court deems just and proper. A copy of the ‘271 Patent is appended to Exhibit A.

2. This action arises from Defendant’s filing of a patent infringement allegation to Amazon.com (“Amazon”), causing Amazon to delist Right Play’s products.

**PARTIES**

3. Right Play is a limited liability corporation and existing under the laws of the People's Republic of China. Its principal place of business is at Room 2107, 21st Floor, Building 2, Senhe Plaza, Shangcheng District, Hangzhou, Zhejiang Province, China 310016. Right Play sells products using a seller ID of A45QZVZKYL1I3.

4. On information and belief, defendant Progressive is a corporation organized and existing under the laws of the state of Delaware. Its principal place of business is at 20435 72nd Ave S, Kent, Washington, 98032.

### **JURISDICTION AND VENUE**

5. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and under the patent laws of the United States, 35 U.S.C. §§ 1-390.

6. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 (federal question), 1338 (patent and unfair competition), 2201(a) (declaratory judgment), and 1367 (supplemental jurisdiction).

7. Venue in this District is proper under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).

8. This Court has personal jurisdiction over Progressive in this District because Progressive is transacting business within this District, including bringing litigation asserting the '271 Patent in Case No. 11-CV-1579 (N.D. Ill, March 7, 2011).

9. On information and belief, Progressive is currently transacting business in this District at least by making and shipping into this Judicial District, or by using, offering to sell or selling or by causing others to use, offer to sell or sell, various kitchen products. On information and belief, Progressive derives substantial revenue from interstate and/or international commerce, including substantial revenue from goods used or consumed or services rendered in this District.

10. Personal jurisdiction is also proper because prior to Progressive's submission of a patent infringement complaint to Amazon, Right Play sold collapsable bins in Illinois, however since Amazon has delisted the collapsable bins at Progressive's request, Right Play can no long sell collapsable bins in Illinois through Amazon.

11. An actual case or controversy exists between the parties to this action. Progressive submitted a patent infringement complaint to Amazon, which has resulted in the removal of Right Play's Amazon product listing.

12. The product delisting from Amazon has prevented Right Play from selling the product on Amazon and caused significant financial loss. Defendant's actions thereby give rise to an actual controversy under 28 U.S.C. §§ 2201 et. Seq.

### **THE PATENT IN SUIT**

13. On information and belief, the '271 Patent issued on or about March 16, 2010, to Heather Curtin. The '271 Patent is assigned on its face to Progressive.

### **INFRINGEMENT ALLEGATION AND AMAZON DELISTING**

14. In an email dated June 4, 2024, from Amazon ("Delisting Email"), Amazon notified Right Play that Amazon had "removed the listings" for the Amazon Standard Identification Numbers ("ASINs") B0CG647P4J, B0CG636M43, B0BPM2569C, B0BPM25F1Z, B0B1LZ33K2, B09ZKDFV99, and B09ZKT1DJG ("Right Play's Accused Products"). A copy of the Delisting Email is attached as Exhibit B.

15. In the Delisting Email Amazon references the '271 patent and lists the rights owner as PREPWORKS. Prepworks is a trademark owned by Progressive.

### **RIGHT PLAYS PRODUCTS**

16. Right Play's Accused Products consist of collapsible storage bins that come in large, small, and deep sizes.

17. Photographs of the Right Play's Accused Products are included below. The first image shows Right Play's Accused Products in the expanded position from the side, the second image shows Right Play's Accused Products in the expanded position from above, and the third image shows Right Play's Accused Products in the collapsed position from above.



Fig. 1, Right Play's Accused Products, Side View



Fig. 2, Right Play's Accused Products expanded, Top View



Fig. 3, Right Play's Accused Products expanded, Top View

**COUNT I: NONINFRINGEMENT**

18. Right Play hereby restates and realleges the allegations set forth in each of the foregoing paragraphs. The making, use, sale, offer for sale and/or importation in the United States of Right Play's Accused Products does not infringe any claim of the '271 Patent. Each of Right Play's Accused Products lack one or more of the elements of the claims of the '271 Patent and thus do not infringe any claim of the '271 Patent either literally or under the doctrine of equivalents.

**COUNT II: INVALIDITY**

19. Right Play hereby restates and realleges the allegations set forth in each of the foregoing paragraphs.

20. Right Play cannot be liable for infringement of the '271 Patent because each of the claims are invalid under one or more provisions of 35 U.S.C. §§ 102, 103 and/or 112.

**PRAYER FOR RELIEF**

WHEREFORE, Right Play prays that this Court:

- A. Declare that Right Play's Accused Products do not infringe any claim of U.S. Patent No. 7,678,271;
- B. Declare that the claims of U.S. Patent No. 7,678,271 are invalid;
- C. Award Right Play such other and further relief this Court may deem just and proper.

Dated: September 25, 2024

Respectfully Submitted,  
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