

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

TIE DOWN, INC.,

Plaintiff,

v.

FRONTLINE FALL PROTECTION INC.,

Defendant.

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Tie Down, Inc. (hereinafter “Tie Down”), for its Complaint against Defendant Frontline Fall Protection Inc. (“Frontline”), hereby alleges as follows:

PARTIES

1. Plaintiff Tie Down is a Georgia corporation having a principal place of business at 605 Stonehill Drive SW, Atlanta, Georgia 30336. Tie Down and its predecessors have been manufacturing products for multiple categories of industry in the primary metals market since 1971. Tie Down designs, manufactures, and sells a variety of roofing safety products, including, among other things, guardrails, mobile fall protection systems, and fall arrest anchors.

2. Upon information and belief, Defendant Frontline is a corporation organized under the laws of Florida, with its principal place of business at 9521 S Orange Blossom Trail, Suite 105, Orlando, Florida 32837. Upon information and belief, Rooftop may be served with process at the office of its registered agent, Andres Betancourt, at 9521 S Orange Blossom Trail, Suite 105, Orlando, Florida 32837. Upon information and belief, Frontline manufactures and sells mobile fall protection systems.

JURISDICTION AND VENUE

3. This is a civil action for patent infringement under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

5. This Court has personal jurisdiction over Frontline because, for example, Frontline has committed tortious acts of patent infringement and intends a future course of conduct that includes further acts of patent infringement in this District.

6. Upon information and belief, Frontline has made, used, sold, offered to sell, and/or imported, and continues to make, use, sell, offer for sale, and/or import in this District products that infringe Tie Down's patents. Frontline's infringing products are its Commando Tank Non-Penetrating Fall Protection Carts, including Model Numbers CO4NN and CO4NN-SLR, ("the Accused Products").

7. Upon information and belief, Frontline has substantial, continuous, and systematic contacts with this District.

8. Upon information and belief, Frontline is in the business of, among other things, manufacturing and selling mobile fall protection systems. Upon information and belief, Frontline, itself and through its subsidiaries, affiliates, and agents, manufactures, imports, markets, distributes and/or sells mobile fall protection systems, including the Accused Products, throughout the United States, including this District.

9. Upon information and belief, Frontline has distribution channels throughout the United States, including in this District. By advertising the Accused Products on the Frontline website and without restriction to a particular geographic area, Frontline has made clear that it

intends to use Frontline’s national distribution channels to distribute and sell the Accused Products throughout the United States, including this District, which would have a substantial effect on this District. Frontline has introduced the Accused Products into the stream of commerce with the knowledge, or reasonable expectation, that actual or potential users of such products and methods are located within this District.

10. Upon information and belief, and based on publicly available information, Frontline maintains an office for at least one of its business units in this District at 9521 S Orange Blossom Trail, Suite 105, Orlando, Florida 32837.

11. This Court has personal jurisdiction over Frontline by virtue of, for example, (1) its continuous and systematic contacts with this District, (2) its organization in Florida, (3) its registered agent for service of process in this District, and (4) its acts of tortious patent infringement in this District.

12. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400 (b), for all of the reasons noted above.

THE PATENT-IN-SUIT

13. Tie Down owns, by assignment, the entire right, title, and interest to U.S. Patent No. 11,826,589 (“the ’589 patent”).

14. On November 28, 2023, the USPTO duly and legally issued the ’589 patent, titled “Balance Mobile Anchor Cart,” naming Charles J. Mackarvich as inventor. A true and correct copy of the ’589 patent is attached hereto as Exhibit A. The ’589 patent generally relates to a device for performing fall arrest and fall restraint safety systems.

15. The devices covered by the ’589 patent are the result of many years of research and development and significant expenditure of money and resources.

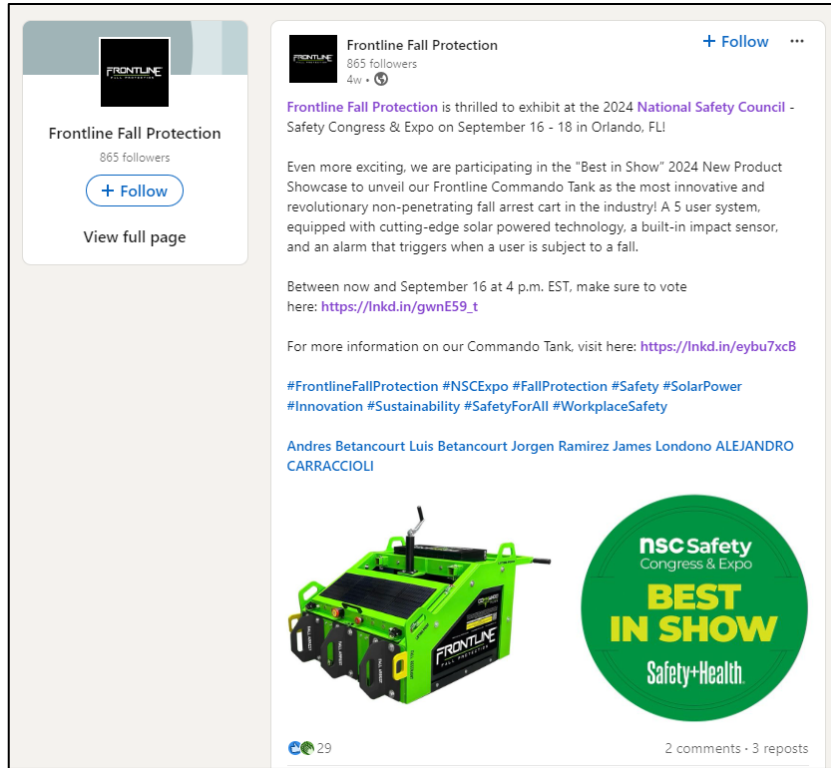
FRONTLINE’S ACCUSED PRODUCTS

16. Upon information and belief, Frontline makes, uses, imports, offers to sell, and/or sells Accused Products that infringe the '589 patent. Frontline markets and sells the Accused Products under various model numbers, including CO4NN and CO4NN-SLR. These products are marketed and sold on Frontline's website (*see* Exhibit B) and described in its related brochures and product specifications (*see* Exhibit C).

17. Upon information and belief, Frontline has been aware of the '589 patent at all relevant times. For example, upon information and belief, Frontline has attempted to purchase Tie Down's own "Squatch Cart" which is marked with the '589 patent.

18. The Accused Products include each and every limitation recited in at least independent claim 8 of the '589 patent as detailed in the preliminary and exemplary infringement chart, below. Therefore, the Accused Products are a literal infringement of the '589 patent.

19. Upon information and belief, Frontline has been and is inducing infringement of at least claim 8 of the '589 patent by actively and knowingly inducing others, including its customers and prospective customers, to directly infringe by using the Accused Products. For example, Frontline recently attended the 2024 National Safety Council - Safety Congress & Expo where its employees demonstrated the Accused Devices to its prospective customers. *See e.g.*, <https://www.linkedin.com/feed/update/urn:li:activity:7238965486661640193/>.



COUNT I
INFRINGEMENT OF THE '589 PATENT



20. Tie Down incorporates by reference each and every allegation contained in the preceding Paragraphs as though fully set forth herein.

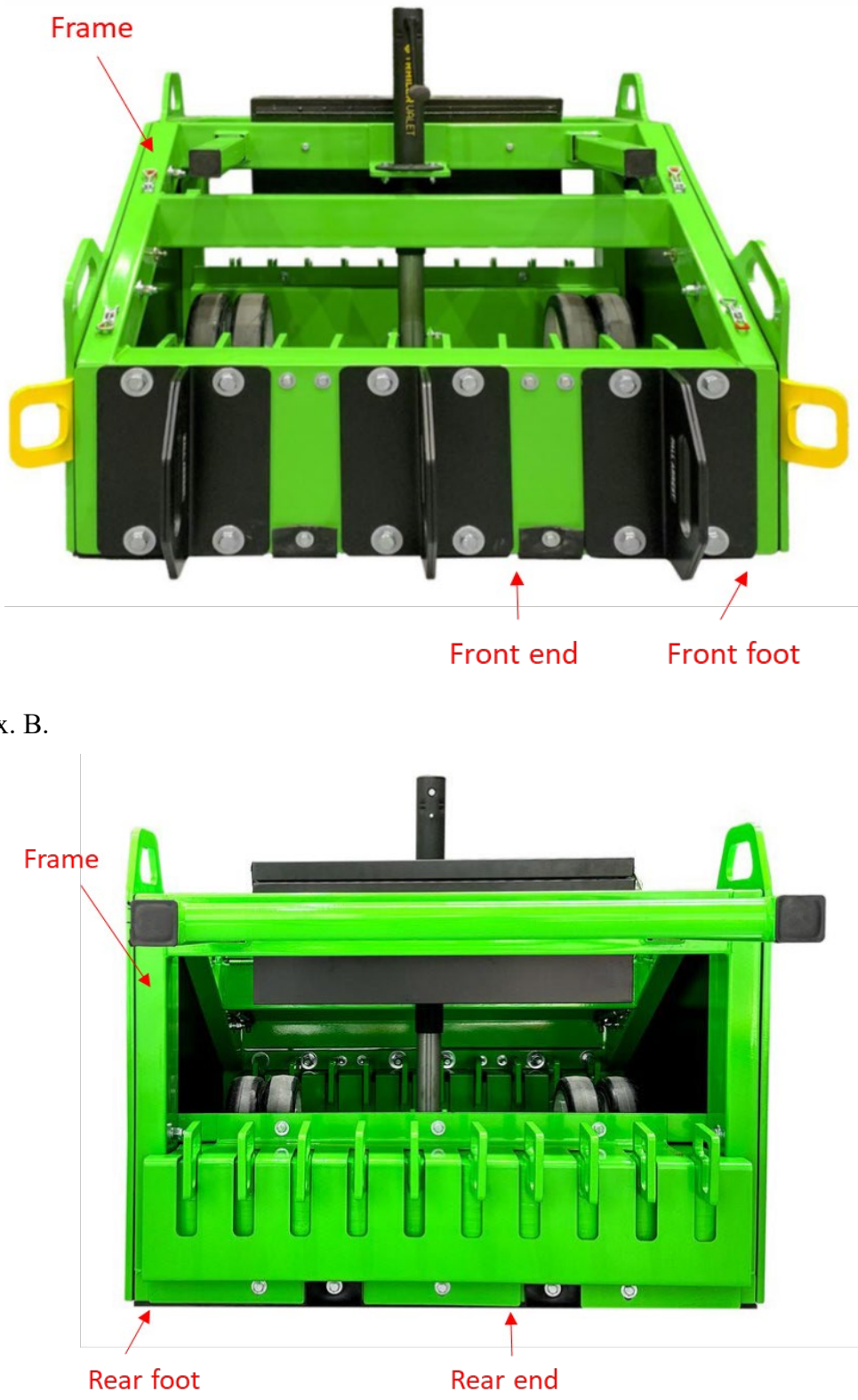
21. Tie Down owns all right, title, and interest in, including the right to sue and recover damages for infringement of the '589 patent.

22. Upon information and belief, Frontline has been aware of the '589 patent at all relevant times.

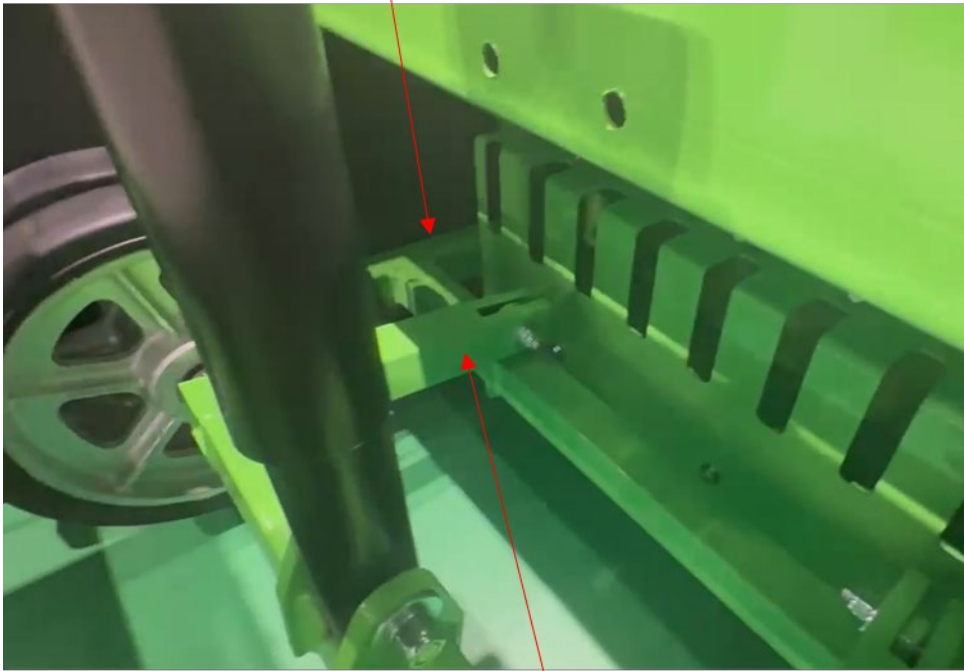
23. Frontline's aforesaid activities have been without authority and/or license from Tie Down and are considered intentional and willful.


24. Upon information and belief, Frontline has infringed and continues to infringe directly the '589 patent, including at least claim 8, either literally or under the doctrine of equivalents. The left side of the table below contains the language of claim 1 of the '589 patent, and the right side of the table contains citations to representative infringement evidence.

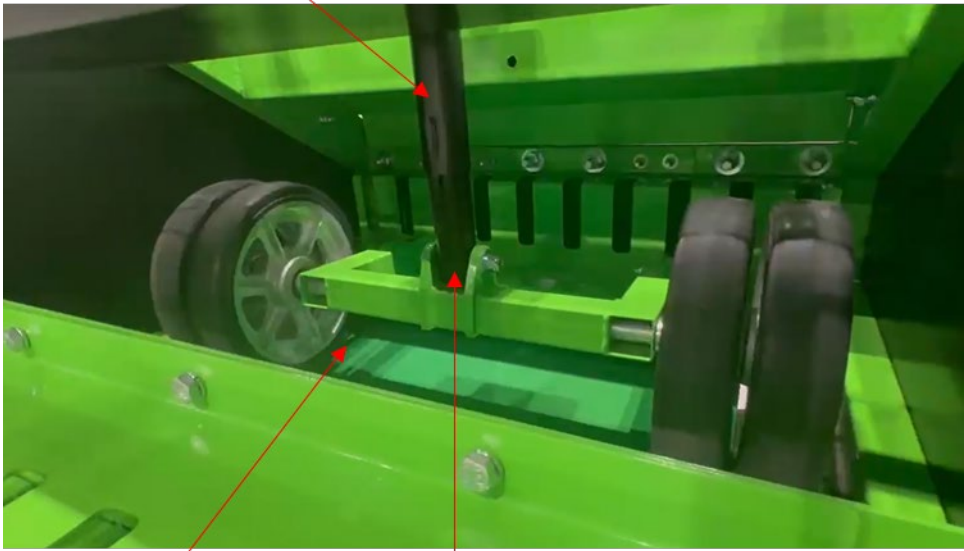
The '589 Patent	Infringement Evidence
<p>[8pre] A cart comprising:</p>	<p>Without conceding whether the preamble is a limitation of this claim, the text and images below, which include Frontline’s own description of the Accused Product on its website and brochure, show that the Accused Product (the “Commando Tank Non-Penetrating Fall Protection Cart”) includes a cart. <i>See, e.g.:</i></p> <div data-bbox="472 436 1430 877" style="border: 1px solid #ccc; padding: 10px;">  <p>Commando Tank Non-Penetrating Fall Protection Cart Commando \$5,499.99 - \$6,999.99 afterpay available for orders between \$1 - \$2,000 (No reviews yet) Write a Review</p> <p>Solar Powered: Required <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>Quantity: <input type="text" value="1"/></p> <p><input type="button" value="Add to Cart"/> <input type="button" value="Add to Wish List"/></p> </div> <p>Ex. B.</p> <div data-bbox="472 1016 1430 1570" style="border: 1px solid #ccc; padding: 10px;"> <p>SPEC SHEET Commando Tank Non-Penetrating Fall Protection Cart</p> <p>C05NN</p> <p>Cart</p>  <div style="float: right; border: 1px solid #ccc; padding: 5px; width: 150px;"> TOTAL NUMBER OF USERS: FALL ARREST: 3 FALL RESTRAINT: 2 </div> <div style="float: right; border: 1px solid #ccc; padding: 5px; width: 150px;"> WEIGHT: ± 990 </div> <div style="float: right; border: 1px solid #ccc; padding: 5px; width: 150px;"> PATENT PENDING </div> <p style="text-align: center;">Features</p> <p style="text-align: center;">Most innovative non-penetrating fall protection cart with 3 fall arrest and 2 fall restraint points.</p> </div> <p>Ex. C.</p>
<p>[8a] a frame defining a front foot at a front end and a rear foot at a rear end;</p>	<p>The Accused Product comprises a frame defining a front foot at a front end and a rear foot at a rear end. <i>See, e.g.:</i></p>

The '589 Patent	Infringement Evidence
	 <p>Ex. B.</p> <p>Ex. B.</p>
[8b] an axle assembly	The Accused Product comprises an axle assembly comprising an axle shaft, at least one wheel mounted on the axle shaft, and at least one pivot arm coupled

The '589 Patent	Infringement Evidence
<p>comprising: an axle shaft; at least one wheel mounted on the axle shaft; and at least one pivot arm coupled to the axle shaft, an end of the at least one pivot arm being hingedly coupled to the front end of the frame such that the pivot arm is located within the frame;</p>	<p>to the axle shaft. An end of the at least one pivot arm is hingedly coupled to the front end of the frame such that the pivot arm is located within the frame. <i>See, e.g.:</i></p>  <p style="text-align: center;">Axle assembly</p> <p>Tie Down video taken on 9/16/2024 at the NCS Safety Congress & Expo in Orlando, FL (hereinafter, the "First Tie Down Video").</p>  <p style="text-align: center;">Axle assembly Axle shaft Wheel</p> <p><i>Id.</i></p>

The '589 Patent	Infringement Evidence
	<div style="text-align: center;"> <p>Frame</p>  <p>Pivot arm</p> </div> <p><i>Id.</i></p>
<p>[8c] a jack defining a top end and a bottom end, the top end coupled to the frame, the bottom end coupled to the axle assembly, a jack length being defined between the top end and the bottom end, the jack being reconfigurable between a collapsed configuration and an extended configuration, the jack length</p>	<p>The Accused Product comprises a jack defining a top end and a bottom end, the top end coupled to the frame, the bottom end coupled to the axle assembly. A jack length is defined between the top end and the bottom end. <i>See, e.g.:</i></p>

The '589 Patent	Infringement Evidence
<p>being longer in the extended configuration than in the collapsed configuration;</p>	<p data-bbox="787 254 1380 294">Jack Top end Frame</p>  <p data-bbox="440 1293 732 1325">First Tie Down Video.</p>

The '589 Patent	Infringement Evidence
	<p data-bbox="695 254 764 285">Jack</p>  <p data-bbox="516 934 732 966">Axle assembly</p> <p data-bbox="841 934 1019 966">Bottom end</p> <p data-bbox="440 1014 477 1045"><i>Id.</i></p> <p data-bbox="440 1066 1463 1209">The jack is reconfigurable between a collapsed configuration and an extended configuration. The jack length is longer in the extended configuration than in the collapsed configuration. For example, the Accused Product includes a crank jack that extends and collapses for lifting and lowering the frame. <i>See, e.g.:</i></p>

The '589 Patent	Infringement Evidence
-----------------	-----------------------






Ex. B.

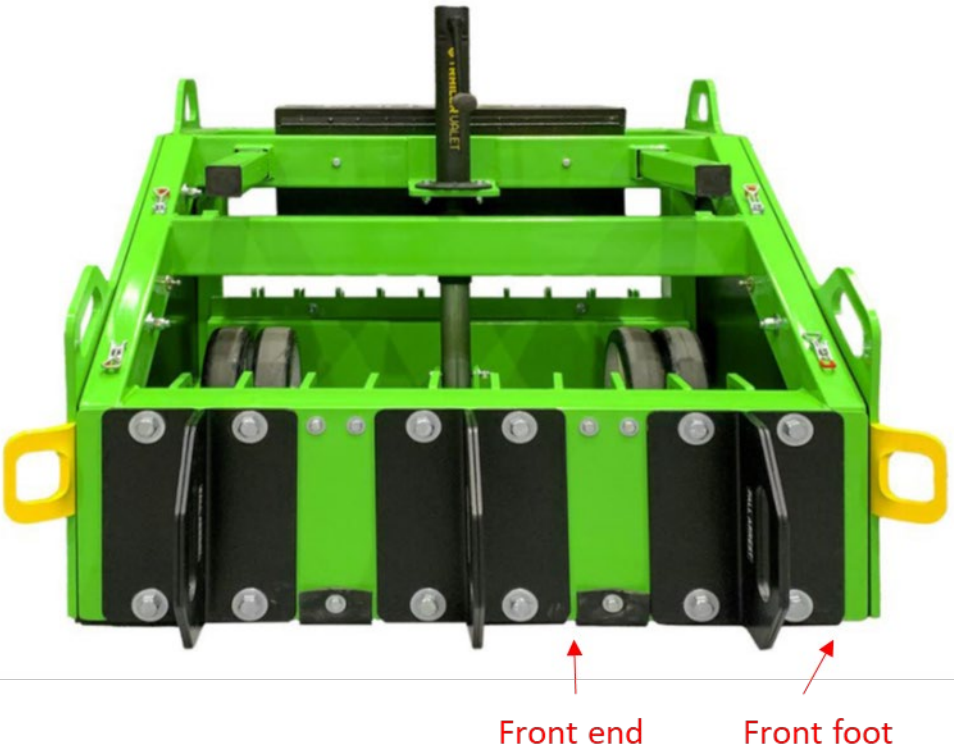
ADDITIONAL FEATURES

- **Usability:** The industry's most innovative non-penetrating fall arrest cart, with 3 fall arrest and 2 fall restraint points.
- **Mobility:** Equipped with flat-free tires and a lifting/lowering device for smooth movement and positioning.
- **Ready to Use:** Fully assembled and palletized, no setup required.

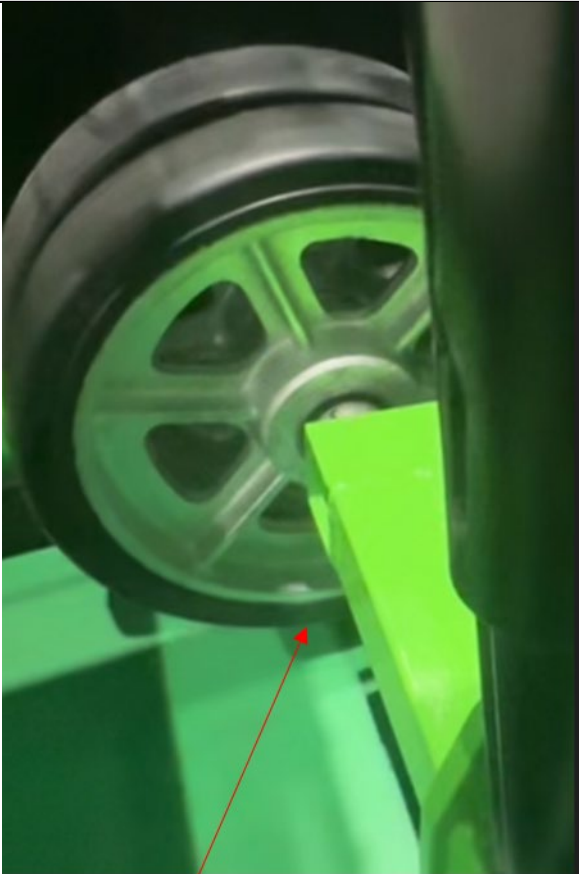
Id.

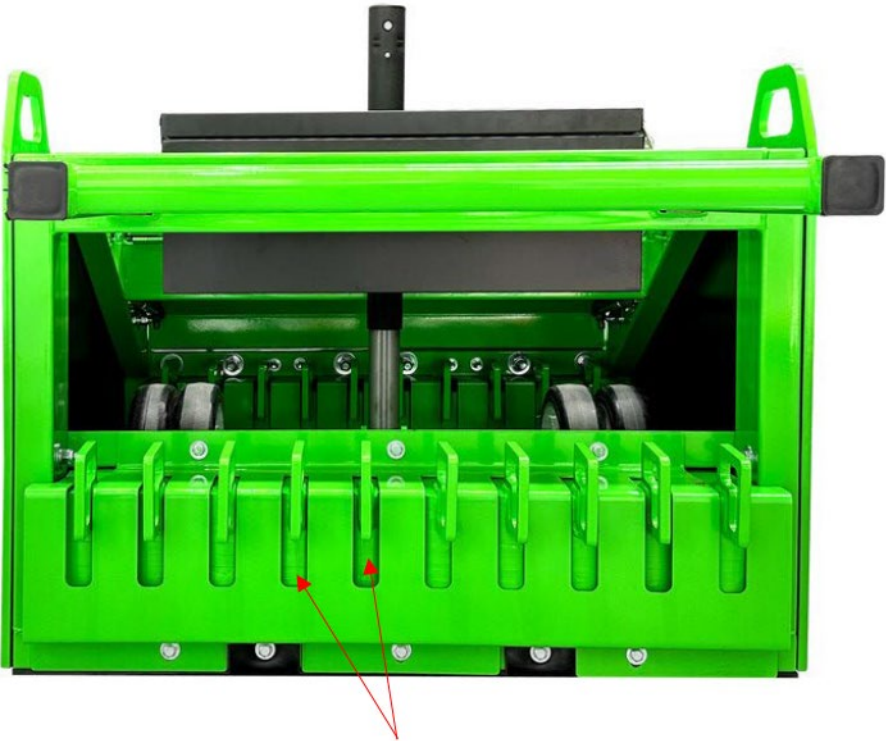
The '589 Patent	Infringement Evidence
	<p>Cart Features:</p> <ul style="list-style-type: none">• <u>Usability</u>: The most innovative non-penetrating fall arrest cart in the industry, 3 in fall arrest and 2 for fall restraint• <u>Convenient Lifting Points</u>: Equipped with 4 picking points for easy lifting of the cart to rooftops or other working surfaces.• <u>Easy Mobility</u>: The cart includes a lifting/lowering device and its conveniently fitted with 4 flat-free tires, allowing for easy movement and precise positioning within the work area.• <u>Weather-Resistant Toolbox</u>: Includes a secure toolbox with 1.5 cubic feet of storage space for tools and equipment, ideal for keeping your gear organized and protected.• <u>Ready to Use</u>: Ships palletized and fully assembled, requiring no additional tools or setup for immediate use. <p><i>Id.</i></p> <p style="text-align: center;">Operator using jack to lower the frame</p>  <p>Second Tie Down video taken on 9/16/2024 at the NCS Safety Congress & Expo in Orlando, FL.</p>

The '589 Patent	Infringement Evidence
	<p data-bbox="630 254 1268 289">Jack at or near the extended configuration</p>  <p data-bbox="440 957 477 993"><i>Id.</i></p> <p data-bbox="630 1026 1308 1062">Jack approaching the collapsed configuration</p>  <p data-bbox="440 1766 477 1801"><i>Id.</i></p>
<p data-bbox="191 1822 402 1955">[8d] wherein: in the collapsed configuration, the frame is</p>	<p data-bbox="440 1822 1458 1892">In the collapsed configuration of the jack, the frame of the Accused Product is supported by the front foot at the front end and the rear foot at the rear end, and</p>

The '589 Patent	Infringement Evidence
<p>supported by the front foot at the front end and the rear foot at the rear end, and the at least one wheel is spaced above a plane defined by the front foot and the rear foot; and</p>	<p>the at least one wheel is spaced above a plane defined by the front foot and the rear foot. <i>See, e.g.:</i></p>  <p>Ex. B.</p>

The '589 Patent	Infringement Evidence
	 <p data-bbox="480 989 630 1020">Rear foot</p> <p data-bbox="932 989 1068 1020">Rear end</p> <p data-bbox="440 1066 477 1098"><i>Id.</i></p>  <p data-bbox="570 1644 716 1675">Front foot</p> <p data-bbox="1138 1644 1268 1675">Rear foot</p> <p data-bbox="1203 1539 1284 1570">Plane</p> <p data-bbox="440 1717 477 1749"><i>Id.</i></p>

The '589 Patent	Infringement Evidence
	 <p data-bbox="716 1142 1182 1178">Wheel spaced above the plane</p> <p data-bbox="440 1224 1430 1291">Tie Down picture taken on 9/18/2024 at the NCS Safety Congress & Expo in Orlando, FL.</p>
<p data-bbox="188 1314 358 1455">[8e] a load comprising a horizontal weight stack.</p>	<p data-bbox="440 1314 1425 1381">The Accused Product comprises a load comprising a horizontal weight stack. <i>See, e.g.:</i></p>

The '589 Patent	Infringement Evidence
	 <p data-bbox="646 1010 1252 1045" style="color: red; text-align: center;">Load comprising horizontal weight stack</p> <p data-bbox="440 1087 526 1123">Ex. B.</p>

25. Frontline has induced and continues to induce infringement of one or more claims of the '589 patent, including at least claim 8, in violation of 35 U.S.C. § 271(b). Upon information and belief, Frontline intentionally has encouraged and continues to encourage direct infringement by its customers and distributors with knowledge of the '589 patent and knowledge that its acts have encouraged and continue to encourage direct infringement, or while remaining willfully blind to the possibility that their inducing acts would cause infringement.

26. On information and belief, Frontline specifically intends for customers to infringe the '589 patent. Frontline encourages infringement by customers at least by providing product support and instructions on how to use the Accused Products. For example, Frontline provides resources, including a specification sheets and/or brochures for each of the Accused Products on Frontline's website. *See, e.g.,* Ex. C.

27. Frontline has contributed to and continues to contribute to infringement of one or more claims of the '589 patent, including at least claim 8, in violation of 35 U.S.C. § 271(c) by actively and knowingly inducing others, including its customers and distributors, to directly infringe by using and selling the Accused Products within the United States..

28. Upon information and belief, Frontline has willfully infringed the '589 patent. Frontline's willful infringement of the '589 patent renders this an exceptional case pursuant to 35 U.S.C. § 285.

29. As a result of Frontline's infringement of the '589 patent, Tie Down has suffered and will continue to suffer damage. Tie Down is entitled to recover from Frontline the damages adequate to compensate for such infringement, which have yet to be determined.

JURY DEMAND

Pursuant to Rule 38(b), Fed. R. Civ. P., Tie Down respectfully demands a trial by jury of all issues so triable.

PRAYERS FOR RELIEF

WHEREFORE, Tie Down requests that judgment be entered in favor of Tie Down and against Frontline as follows:

- A. That Frontline has infringed and is infringing the '589 patent;
- B. That such infringement is willful;
- C. That Tie Down be awarded damages under 35 U.S.C. § 284 in an amount sufficient to compensate Tie Down for its damages arising from infringement by Frontline, including, but not limited to, lost profits and/or a reasonable royalty, together with pre-judgment and post-judgment interest, and costs;
- D. That a permanent injunction be granted against Frontline;

E. That this case be declared exceptional pursuant to 35 U.S.C. § 285 and that Tie Down be awarded its reasonable attorneys' fees, litigation expenses and expert witness fees, and costs;

F. That Tie Down be awarded an accounting and/or supplemental damages for all damages occurring after any discovery cutoff and through the Court's entry of judgment;

G. That Tie Down be awarded such other relief as this Court or a jury may deem proper and just under the circumstances.

Dated: October 8, 2024

Respectfully submitted,

/s/ Austin C. Vining

Coby S. Nixon

(*pro hac vice* application forthcoming)

cnixon@buchalter.com

Seth K. Trimble

(*pro hac vice* application forthcoming)

strimble@buchalter.com

Austin C. Vining

Florida Bar No. 1050906

avining@buchalter.com

**BUCHALTER, A PROFESSIONAL
CORPORATION**

3350 Riverwood Pkwy SE

Suite 1900

Atlanta, GA 30339

Telephone: (404) 832-7530

Attorneys for Plaintiff Tie Down, Inc.