

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-00546-RBJ

THULE ORGANIZATION SOLUTIONS, INC.,
a Colorado corporation,

Plaintiff,

v.

BEST BUY STORES, L.P.,
a Minnesota limited partnership,
BESTBUY.COM, LLC,
a Minnesota limited liability company,

Defendants.

AMENDED COMPLAINT WITH JURY DEMAND

Plaintiff Thule Organization Solutions, Inc. ("Thule"), by and through its undersigned attorneys, for its Complaint against Best Buy Stores, L.P. and BestBuy.com, LLC (collectively referred to as "Defendants") states as follows:

I. THE PARTIES

1. Thule is a Colorado corporation, having its principal place of business at 6303 Dry Creek Parkway, Longmont, Colorado 80503.

2. Upon information and belief, Best Buy Stores, L.P. is a limited partnership formed under the laws of the state of Minnesota with its principal place of business at 7601 Penn Avenue South, Richfield, Minnesota 55423. Upon information and belief, Best Buy Stores, L.P. does business as Rocketfish in connection with electronics accessories.

3. Upon information and belief, BestBuy.com, LLC is a limited liability company formed under the laws of the state of Minnesota with its principal place of business at 7601 Penn Avenue South, Richfield, Minnesota 55423. Upon information and belief, BestBuy.com, LLC is affiliated with and provides an online retail outlet for Defendant Best Buy Stores, L.P.

II. JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. § 101, *et seq.*

5. This Court has original subject matter jurisdiction over the asserted claims under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendants as Thule's claims arise from Defendants' transactions of business and commission of tortious acts in this judicial district and as Thule is being damaged in this judicial district by Defendants' tortious conduct.

7. Venue is proper in the United States District Court for the District of Colorado pursuant to 28 U.S.C. §§ 1391 and 1400(b).

III. GENERAL ALLEGATIONS

8. Thule is engaged in the business of, among other things, designing, developing, manufacturing, distributing, marketing and selling life-style oriented accessories. Thule's products include storage and organization solutions and accessories for audio, computer, photo/video, wireless electronics, automotive, home, travel, health and mobility markets. Thule sells its products throughout Colorado, the United States, and the world.

A. Thule's '698 Patent

9. U.S. Patent No. 7,281,698 issued on October 16, 2007 in the name of inventor John S. Patterson, Jr., and entitled "Multi-Positionable Notebook Computer Case" ("the '698 Patent"). Thule owns all right, title and interest to the '698 Patent. A true and correct copy of the '698 Patent is attached as Exhibit 1 and is incorporated by reference.

B. Defendants' Infringing Conduct

10. Upon information and belief, Defendants have imported, made, caused to be made, and have used, offered for sale, and/or sold in Colorado and elsewhere one or more electronic device case products, including but not necessarily limited to the product known as "Canvas Spectator Case," which incorporate one or more of the inventions claimed in Thule's '698 Patent. As such, Defendants have infringed, either literally or under the doctrine of equivalents, Thule's '698 Patent. Photographs of Defendants' "Canvas Spectator Case," are attached as Exhibit 2 and are incorporated by reference.

11. Thule has put Defendants on actual notice of the '698 Patent at least as early as October, 2012. True and correct copies of letters from Thule to Defendant Best Buy Stores, L.P. d/b/a Rocketfish concerning the '698 Patent are attached as Exhibit 3 and incorporated by reference. To date, Defendants have not substantively responded to Thule's correspondence.

12. Upon information and belief, Defendants have acted in willful and wanton disregard of Thule's rights in and to the '698 Patent.

**IV. FIRST CLAIM FOR RELIEF
(Infringement of the '698 Patent)**

13. Thule incorporates paragraphs 1 through 12 as though fully set forth herein.

14. This cause of action arises under the patent laws of the United States, 35 U.S.C. §§ 101, *et seq.*

15. Defendants have been and are now willfully infringing Thule's '698 Patent by manufacturing, using, distributing, importing, offering for sale and/or selling, by actively inducing others to manufacture, distribute, import, use and/or sell, and/or by contributing to the manufacture, distribution, use, importation, offer for sale and/or sale of one or more electronic device case products.

16. Defendants have both actual and constructive notice of the '698 Patent.

17. As a result of Defendants' wrongful actions, Thule has suffered commercial harm.

18. Thule has been and continues to be harmed irreparably by Defendants' infringing actions and has no adequate remedy at law.

V. PRAYER FOR RELIEF

WHEREFORE, Thule prays for judgment in its favor and against Defendants as follows:

A. That Defendants, their agents, servants, officers, directors, employees, attorneys, privies, representatives, successors, assigns and parent and subsidiary corporations or other related entities, and any and all persons in active concert or participation with any of them, be preliminarily and permanently enjoined from:

1. Any further infringement of Thule's U.S. Patent No. 7,281,698;
2. Manufacturing, having manufactured, importing, marketing or selling any product or material containing or utilizing Thule's intellectual property; or
3. Any other conduct constituting infringement of Thule's intellectual property;

B. That Defendants be ordered to deliver up to Thule for destruction, or certify destruction of, all of Defendants' products that infringe Thule's U.S. Patent No. 7,281,698;

C. That Defendants be ordered to file with the Court, and serve upon Thule, within thirty (30) calendar days after the entry of an injunction, a report, in writing and under oath, setting forth in detail, the manner and form in which Defendants have complied with any ordered injunction;

D. That Thule be awarded damages in an amount to be determined at trial for all of Defendants' infringing activities, including the award of Thule's damages and lost profits, all from the date of first infringement;

E. That Thule be awarded treble actual damages and attorney's fees;

F. That Thule be awarded punitive damages;

G. That Thule be awarded pre- and post-judgment interest;

H. That Thule be awarded costs and expenses, including expert witness fees; and

I. That Thule be awarded any other preliminary or permanent relief that the Court deems appropriate.

VI. JURY DEMAND

Thule demands a jury trial on all issues so triable.

Respectfully submitted,

Dated: August 14, 2013

By: s/Ian R. Walsworth
Todd P. Blakely
tblakely@sheridanross.com
Ian R. Walsworth
iwalsworth@sheridanross.com
SHERIDAN ROSS P.C.
1560 Broadway, Suite 1200
Denver, CO 80202-5141
Telephone: 303-863-9700
Facsimile: 303-863-0223
E-mail: litigation@sheridanross.com

ATTORNEYS FOR PLAINTIFF
THULE ORGANIZATION SOLUTIONS, INC.