

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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**FISKARS BRANDS, INC.,  
FISKARS BRANDS FINLAND OY AB,**

Case No.: 09-CV-175

Plaintiffs,

v.

**CENTURION GARDEN AND  
OUTDOOR LIVING, INC.,**

Defendant.

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**COMPLAINT FOR PATENT INFRINGEMENT**

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Plaintiffs Fiskars Brands, Inc. and Fiskars Brands Finland Oy AB (collectively, “Fiskars”), for a complaint against Defendant Centurion Garden and Outdoor Living, Inc. (“Centurion”), allege as follows:

**THE PARTIES**

1. Plaintiff Fiskars Brands, Inc. is a Wisconsin corporation with its principal place of business at 2537 Daniels Street, Madison, Wisconsin 53718.
2. Plaintiff Fiskars Brands Finland Oy AB is a Finnish corporation with its principal place of business in Billnas, Finland.
3. On information and belief, Centurion is a Delaware corporation with its principal place of business at 3460 Kingsboro Road #4, Atlanta, Georgia 30326.

### **JURISDICTION**

4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 et seq. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Centurion because Centurion conducts substantial business in Wisconsin and is committing infringing acts in Wisconsin.

6. Venue in this District is proper under 28 U.S.C. §§ 1391 and 1400(b) because Centurion is a corporation that resides within the District. Centurion sells and offers to sell infringing products to customers in this District through various distributors. On information and belief, at least two of Centurion's employees currently reside in this District.

### **FACTS GIVING RISE TO THIS ACTION**

7. Paragraphs 1 - 6 are incorporated by reference as if set forth here in full.

8. Fiskars brings this action to seek damages and injunctive relief arising out of Centurion's infringement of Fiskars' U.S. Patent No. 7,350,839 ("the '839 patent") and U.S. Design Patent Nos. D487,010 ("the '010 patent"), D576,468 ("the '468 patent"), Des. 414,670 ("the '670 patent"), and D456,676 ("the '676 patent") (collectively, the "Fiskars Patents-In-Suit," attached hereto at Exhibits A, B, C, D, and E, respectively).

9. On information and belief, Centurion has made, used, sold, and/or offered for sale products covered by one or more claims of the Fiskars Patents-In-Suit, including (but not limited to) the CENTURION™ Bypass Pruner, the CENTURION™ Pruning Saw, the MASTERFORCE™ Garden Spade, the MASTERFORCE™ Transplanting Spade, the MASTERFORCE™ Oval Handle Shovel, the MASTERFORCE™ Garden Fork, the MASTERFORCE™ Leaf Rake, and the MASTERFORCE™ Shrub Rake.

**COUNT I**

**Infringement Of The '839 Patent**

10. Paragraphs 1 - 9 are incorporated by reference as if set forth here in full.

11. On April 1, 2008, United States Patent No. 7,350,839 ("the '839 patent") issued. The patent is entitled "Hand Tool." The named inventors are Elizabeth J. Marquardt, Paul R. Johnson, Anthony W. Konkler, and Nathan B. Fethke. The assignee of the '839 patent is Fiskars Brands, Inc. A copy of the '839 patent is attached as Exhibit A hereto.

12. On information and belief, Centurion's manufacture, use, sale and/or offer for sale of the MASTERFORCE™ Garden Spade constitutes infringement of the '839 patent, either directly, indirectly, literally or under the doctrine of equivalents.

13. On information and belief, Centurion's manufacture, use, sale and/or offer for sale of the MASTERFORCE™ Transplanting Spade constitutes infringement of the '839 patent, either directly, indirectly, literally or under the doctrine of equivalents.

14. On information and belief, Centurion's manufacture, use, sale and/or offer for sale of the MASTERFORCE™ Oval Handle Shovel constitutes infringement of the '839 patent, either directly, indirectly, literally or under the doctrine of equivalents.

15. Centurion's activities violate one or more subsections of 35 U.S.C. § 271.

16. On information and belief, Centurion's infringement of the '839 patent has been willful and deliberate.

17. If Centurion's infringing activities are not enjoined, Fiskars will suffer irreparable harm that cannot be adequately compensated by a monetary award.

18. Fiskars has suffered economic harm as a result of Centurion's infringing activities in an amount to be proven at trial.

## **COUNT II**

### **Infringement Of The '010 Patent**

19. Paragraphs 1 - 18 are incorporated by reference as if set forth here in full.

20. On February 24, 2004, United States Design Patent No. D487,010 (“the ‘010 patent”) issued. The patent is entitled “Handle for a Hand Tool.” The named inventors are Elizabeth J. Marquardt, Paul R. Johnson, Anthony W. Konkler, and Nathan B. Fethke. The assignee of the ‘010 patent is Fiskars Brands Inc. A copy of the ‘010 patent is attached as Exhibit B hereto.

21. On information and belief, Centurion’s manufacture, use, sale and/or offer for sale of the MASTERFORCE™ Garden Spade constitutes infringement of the ‘010 patent, either directly, indirectly, literally or under the doctrine of equivalents.

22. On information and belief, Centurion’s manufacture, use, sale and/or offer for sale of the MASTERFORCE™ Transplanting Spade constitutes infringement of the ‘010 patent, either directly, indirectly, literally or under the doctrine of equivalents.

23. On information and belief, Centurion’s manufacture, use, sale and/or offer for sale of the MASTERFORCE™ Oval Handle Shovel constitutes infringement of the ‘010 patent, either directly, indirectly, literally or under the doctrine of equivalents.

24. On information and belief, Centurion’s manufacture, use, sale and/or offer for sale of the MASTERFORCE™ Garden Fork constitutes infringement of the ‘010 patent, either directly, indirectly, literally or under the doctrine of equivalents.

25. Centurion’s activities violate one or more subsections of 35 U.S.C. § 271.

26. On information and belief, Centurion’s infringement of the ‘010 patent has been willful and deliberate.

27. If Centurion's infringing activities are not enjoined, Fiskars will suffer irreparable harm that cannot be adequately compensated by a monetary award.

28. Fiskars has suffered economic harm as a result of Centurion's infringing activities in an amount to be proven at trial.

### **COUNT III**

#### **Infringement Of The '468 Patent**

29. Paragraphs 1 - 28 are incorporated by reference as if set forth here in full.

30. On September 9, 2008, United States Design Patent No. D576,468 ("the '468 patent") issued. The patent is entitled "Handle for a Hand Tool." The named inventors are Daniel J. Lipscomb and Jason Crowell. The assignee of the '439 patent is Fiskars Brands, Inc. A copy of the '468 patent is attached as Exhibit C hereto.

31. On information and belief, Centurion's manufacture, use, sale and/or offer for sale of the CENTURION™ Bypass Pruner constitutes infringement of the '468 patent, either directly, indirectly, literally or under the doctrine of equivalents.

32. Centurion's activities violate one or more subsections of 35 U.S.C. § 271.

33. On information and belief, Centurion's infringement of the '468 patent has been willful and deliberate.

34. If Centurion's infringing activities are not enjoined, Fiskars will suffer irreparable harm that cannot be adequately compensated by a monetary award.

35. Fiskars has suffered economic harm as a result of Centurion's infringing activities in an amount to be proven at trial.

#### **COUNT IV**

##### **Infringement Of The ‘670 Patent**

36. Paragraphs 1 - 35 are incorporated by reference as if set forth here in full.

37. On October 5, 1999, United States Design Patent No. Des. 414,670 (“the ‘670 patent”) issued. The patent is entitled “Pull Saw With Retractable Blade.” The named inventor is Erkki Olavi Lindén. The assignee of the ‘670 patent is Fiskars Brands Finland Oy AB. A copy of the ‘670 patent is attached as Exhibit D hereto.

38. On information and belief, Centurion’s manufacture, use, sale and/or offer for sale of the CENTURION™ Pruning Saw constitutes infringement of the ‘670 patent, either directly, indirectly, literally or under the doctrine of equivalents.

39. Centurion’s activities violate one or more subsections of 35 U.S.C. § 271.

40. On information and belief, Centurion’s infringement of the ‘670 patent has been willful and deliberate.

41. If Centurion’s infringing activities are not enjoined, Fiskars will suffer irreparable harm that cannot be adequately compensated by a monetary award.

42. Fiskars has suffered economic harm as a result of Centurion’s infringing activities in an amount to be proven at trial.

#### **COUNT V**

##### **Infringement Of The ‘676 Patent**

43. Paragraphs 1 - 42 are incorporated by reference as if set forth here in full.

44. On May 7, 2002, United States Design Patent No. D456,676 (“the ‘676 patent”) issued. The patent is entitled “Rake Head.” The named inventors are Timo Sunila and

Svante Rönholm. The assignee of the '676 patent is Fiskars Brands Finland Oy AB. A copy of the '676 patent is attached as Exhibit E hereto.

45. On information and belief, Centurion's manufacture, use, sale and/or offer for sale of the MASTERFORCE™ Leaf Rake constitutes infringement of the '676 patent, either directly, indirectly, literally or under the doctrine of equivalents.

46. On information and belief, Centurion's manufacture, use, sale and/or offer for sale of the MASTERFORCE™ Shrub Rake constitutes infringement of the '676 patent, either directly, indirectly, literally or under the doctrine of equivalents.

47. Centurion's activities violate one or more subsections of 35 U.S.C. § 271.

48. On information and belief, Centurion's infringement of the '676 patent has been willful and deliberate.

49. If Centurion's infringing activities are not enjoined, Fiskars will suffer irreparable harm that cannot be adequately compensated by a monetary award.

50. Fiskars has suffered economic harm as a result of Centurion's infringing activities in an amount to be proven at trial.

### **PRAYER FOR RELIEF**

WHEREFORE Plaintiff seeks the following relief from this Court:

A. That this Court adjudge and decree that Centurion has, directly and indirectly, infringed one or more of the Fiskars Patents-In-Suit and that each of the Fiskars Patents-In-Suit is valid and enforceable;

B. A permanent injunction enjoining Centurion and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for Centurion and on its behalf, or acting in concert with it directly or indirectly,

from importing, making, using, selling, and/or offering to sell: (1) the CENTURION™ Bypass Pruner; (2) the CENTURION™ Pruning Saw; (3) the MASTERFORCE™ Garden Spade; (4) the MASTERFORCE™ Transplanting Spade; (5) the MASTERFORCE™ Oval Handle Shovel; (6) the MASTERFORCE™ Garden Fork; (7) the MASTERFORCE™ Leaf Rake; (8) the MASTERFORCE™ Shrub Rake; and (9) any other Centurion product that would infringe any of the Fiskars Patents-In-Suit.

C. An award of damages, together with interest, to Fiskars in an amount adequate to compensate Fiskars for Centurion's infringement of the Fiskars Patents-In-Suit, as provided in 35 U.S.C. § 284;

D. An adjudication that Centurion has willfully infringed the Fiskars Patents-In-Suit and increasing the award of damage to Fiskars up to three times in view of Centurion's willful infringement;

E. A declaration that this is an exceptional case under 35 U.S.C. § 285 and that Fiskars be awarded its attorneys' fees and costs incurred in prosecuting its claims as provided under 35 U.S.C. § 285; and

F. Such other relief as this Court deems proper.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues properly tried to a jury.

Dated this 27<sup>th</sup> day of March 2009.

s/ Allen A. Arntsen

Allen A. Arntsen (WBN 1015038)

Justin E. Gray (WBN 1061486)

**FOLEY & LARDNER LLP**

150 E. Gilman Street

P.O. Box 1497

Madison, WI 53701-1497

(608) 257-5035

*Attorneys for Plaintiff*