

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

VÄLINGE INNOVATION AB,

Plaintiff,

v.

**PERGO AG,
PERGO AB, and
PERGO LLC,**

Defendants.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Välinge Innovation AB ("Välinge"), by and through its undersigned counsel, hereby files the following Complaint against Defendants, Pergo AG, Pergo AB and Pergo LLC (collectively, and/or, individually "Defendant(s)" or "Pergo"), and alleges as follows:

NATURE OF CLAIMS

1. This is an action for patent infringement of Välinge's U.S. Patent No. 6,182,410 ("the '410 patent"), U.S. Patent No. 6,516,579 ("the '579 patent"), U.S. Patent No. 7,121,059 ("the '059 patent"), and U.S. Patent No. 7,444,791 ("the '791 patent") (collectively, "the Infringed Patents"). Välinge asserts the '410, '579, '059 and '791 patents against Defendants for making, using, offering to sell, selling and/or importing various laminate-flooring products, including laminate-flooring products sold under the trade names "Prestige – Potomac Hickory," "Prestige – August Oak," "TrafficMaster – Hanover Oak," "Presto – Bridgeport Red Oak," "Living Flooring – Monterey Maple," "Presto – Salem Oak," and "Simple Renovations –

Redwood Oak” (collectively, “the Accused Products”) or contributing to and/or inducing others to infringe the ‘410, ‘579, ‘059 and/or ‘791 patents.

THE PARTIES

2. Vålinge is a corporation organized under the laws of Sweden, having its principal place of business at Prästavägen 513 S 260 40 Viken, Sweden.

3. Upon information and belief, Pergo AG is a corporation organized under the laws of Switzerland, having its principal place of business at Lindenstrasse 2 Baar, Zug 6340 Switzerland.

4. Upon information and belief, Pergo AB is a corporation organized under the laws of Sweden, having its principal place of business at Strandridaregatan 8 Trelleborg, Skåne 231 61 Sweden.

5. Upon information and belief, Pergo LLC is a corporation organized under the laws of Delaware, having its principal place of business at 3128 Highwoods Blvd., Suite 100, Raleigh, North Carolina 27604. Upon information and belief, Pergo LLC’s registered office is located at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, and Pergo LLC’s registered agent for service of process in Delaware is The Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Pergo AG because Pergo AG has established minimum contacts with the forum such that the exercise of personal jurisdiction over Pergo AG will not offend traditional notions of fair play and substantial justice.

8. This Court has personal jurisdiction over Pergo AB because Pergo AB has established minimum contacts with the forum such that the exercise of personal jurisdiction over Pergo AG will not offend traditional notions of fair play and substantial justice.

9. This Court has personal jurisdiction over Pergo LLC because Pergo LLC is a Delaware corporation with a registered office in Delaware, because Pergo LLC has designated an agent in Delaware for service of process, and/or because Pergo LLC has been conducting and/or is presently conducting business in the District of Delaware on a regular basis.

10. In addition, this Court has personal jurisdiction over Defendants because Defendants have knowingly and actively engaged in acts that have infringed and will infringe and/or aid and abet the direct infringement of claims of the Infringed Patents in the District of Delaware.

11. Venue is proper in this district under 35 U.S.C. §§ 1391 and 1400(b).

FACTUAL BACKGROUND

12. On February 6, 2001, the United States Patent and Trademark Office duly and legally issued the '410 patent, entitled, "System For Joining Building Boards." A copy of the '410 patent is attached as Exhibit A. The '410 patent was assigned to Välinge Aluminium AB, which is now doing business as Välinge.

13. Välinge owns all right, title and interest in the '410 patent, including the right to use and enforce the '410 patent.

14. On February 11, 2003, the United States Patent and Trademark Office duly and legally issued the '579 patent, entitled, "System For Joining Building Boards." A copy of the '579 patent is attached as Exhibit B. The '579 patent was assigned to Välinge Aluminium AB, which is now doing business as Välinge.

15. Välinge owns all right, title and interest in the '579 patent, including the right to use and enforce the '579 patent.

16. On October 17, 2006, the United States Patent and Trademark Office duly and legally issued the '059 patent, entitled, "System For Joining Building Panels." A copy of the '059 patent is attached as Exhibit C. The '059 patent lists Välinge as the assignee.

17. Välinge owns all right, title and interest in the '059 patent, including the right to use and enforce the '059 patent.

18. On November 4, 2008, the United States Patent and Trademark Office duly and legally issued the '791 patent, entitled, "Locking System And Flooring Board." A copy of the '791 patent is attached as Exhibit D. The '791 patent lists Välinge as the assignee.

19. Välinge owns all right, title and interest in the '791 patent, including the right to use and enforce the '791 patent.

20. Välinge conducts research and development on flooring systems and methods of installing flooring, and owns patents which cover many of the inventions that have resulted from such research and development. Välinge licenses the rights to such patents to several leading manufacturers, distributors and sellers of laminate flooring in the world. Laminate-flooring products are manufactured, sold and distributed throughout the United States and in this district under such licenses from Välinge.

21. Pergo AB is in the business of manufacture, distribution and sales of laminate-flooring products and competes with Välinge, and with entities licensed by Välinge, in various geographic and product markets.

22. Pergo AB offers to sell, sells and/or imports various laminate-flooring products, including laminate-flooring products sold under the trade names "Prestige – Potomac Hickory,"

“Prestige – August Oak,” “TrafficMaster – Hanover Oak,” “Presto – Bridgeport Red Oak,” “Living Flooring – Monterey Maple,” “Presto – Salem Oak,” and “Simple Renovations – Redwood Oak.” Pergo AB, either directly or through intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and advertises these products within the United States and in the District of Delaware. Pergo AB has purposefully and voluntarily placed the Accused Products into the stream of commerce with the expectation that they will be purchased by consumers in the District of Delaware. Pergo AB’s products, the Accused Products, have been sold and continue to be sold by at least Home Depot, Lowes and Sam’s Club, each of which is incorporated under the laws of Delaware and sells the Accused Products in the District of Delaware.

23. Pergo AB committed and continues to commit acts of patent infringement within the United States and in the District of Delaware.

24. Pergo LLC is in the business of manufacture, distribution and sales of laminate-flooring products and competes with Välinge, and with entities licensed by Välinge, in various geographic and product markets.

25. Pergo LLC offers to sell, sells and/or imports various laminate-flooring products, including laminate-flooring products sold under the trade names “Prestige – Potomac Hickory,” “Prestige – August Oak,” “TrafficMaster – Hanover Oak,” “Presto – Bridgeport Red Oak,” “Living Flooring – Monterey Maple,” “Presto – Salem Oak,” and “Simple Renovations – Redwood Oak.” Pergo LLC, either directly or through intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and advertises this product within the United States and in the District of Delaware. Pergo LLC has purposefully and voluntarily placed the Accused Products into the stream of commerce with the expectation that they will be

purchased by consumers in the District of Delaware. Pergo LLC's products, the Accused Products, have been sold and continue to be sold by at least Home Depot, Lowes and Sam's Club, each of which is incorporated under the laws of Delaware and sells the Accused Products in the District of Delaware.

26. Pergo LLC committed and continues to commit acts of patent infringement within the United States and in the District of Delaware.

27. Pergo AG is in the business of research, development, manufacture, distribution and sales of laminate-flooring products and competes with Välinge, and with entities licensed by Välinge, in various geographic and product markets.

28. Pergo LLC and Pergo AB are wholly owned subsidiaries of Pergo AG.

29. Pergo AG serves as the corporate parent and control center for both Pergo LLC and Pergo AB, directing both Pergo LLC and Pergo AB regarding all their activities involved in the manufacture, distribution and sales of the Accused Products in the United States and in the District of Delaware.

30. Pergo AG committed and continues to commit acts of patent infringement within the United States and in the District of Delaware.

COUNT I: INFRINGEMENT OF THE '410 PATENT

31. Valinge restates and realleges the foregoing allegations as if fully stated herein.

32. Pergo, in violation of 35 U.S.C. § 271, has infringed and continues to infringe the '410 patent.

33. Välinge, under 35 U.S.C. § 284, may recover damages adequate to compensate for the infringement of Pergo.

34. Välinge has been, and continues to be, damaged and irreparably harmed by the infringement of Pergo, which will continue unless this Court enjoins Pergo.

35. The infringement of the '410 patent by Pergo has been, and continues to be, deliberate, willful, and knowing.

36. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Välinge to recover treble damages and attorney's fees.

COUNT II: INFRINGEMENT OF THE '579 PATENT

37. Valinge restates and realleges the foregoing allegations as if fully stated herein.

38. Pergo, in violation of 35 U.S.C. § 271, has infringed and continues to infringe the '579 patent.

39. Välinge, under 35 U.S.C. § 284, may recover damages adequate to compensate for the infringement of Pergo.

40. Välinge has been, and continues to be, damaged and irreparably harmed by the infringement of Pergo, which will continue unless this Court enjoins Pergo.

41. The infringement of the '579 patent by Pergo has been, and continues to be, deliberate, willful, and knowing.

42. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Välinge to recover treble damages and attorney's fees.

COUNT III: INFRINGEMENT OF THE '059 PATENT

43. Valinge restates and realleges the foregoing allegations as if fully stated herein.

44. Pergo, in violation of 35 U.S.C. § 271, has infringed and continues to infringe the '059 patent.

45. Välinge, under 35 U.S.C. § 284, may recover damages adequate to compensate for the infringement of Pergo.

46. Välinge has been, and continues to be, damaged and irreparably harmed by the infringement of Pergo, which will continue unless this Court enjoins Pergo.

47. The infringement of the '059 patent by Pergo has been, and continues to be, deliberate, willful, and knowing.

48. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Välinge to recover treble damages and attorney's fees.

COUNT IV: INFRINGEMENT OF THE '791 PATENT

49. Valinge restates and realleges the foregoing allegations as if fully stated herein.

50. Pergo, in violation of 35 U.S.C. § 271, has infringed and continues to infringe the '791 patent.

51. Välinge, under 35 U.S.C. § 284, may recover damages adequate to compensate for the infringement of Pergo.

52. Välinge has been, and continues to be, damaged and irreparably harmed by the infringement of Pergo, which will continue unless this Court enjoins Pergo.

53. The infringement of the '791 patent by Pergo has been, and continues to be, deliberate, willful, and knowing.

54. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Välinge to recover treble damages and attorney's fees.

COUNT V: CONTRIBUTORY/INDUCED INFRINGEMENT OF THE '410 PATENT

55. Valinge restates and realleges the foregoing allegations as if fully stated herein.

56. Pergo, in violation of 35 U.S.C. § 271, has and continues to contribute to and/or induce others to infringe the '410 patent.

57. Välinge, under 35 U.S.C. § 284, may recover damages adequate to compensate for the infringement of Pergo.

58. Välinge has been, and continues to be, damaged and irreparably harmed by the infringement of Pergo, which will continue unless this Court enjoins Pergo.

59. The infringement of the '410 patent by Pergo has been, and continues to be, deliberate, willful, and knowing.

60. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Välinge to recover treble damages and attorney's fees.

COUNT VI: CONTRIBUTORY/INDUCED INFRINGEMENT OF THE '579 PATENT

61. Valinge restates and realleges the foregoing allegations as if fully stated herein.

62. Pergo, in violation of 35 U.S.C. § 271, has and continues to contribute to and/or induce others to infringe the '579 patent.

63. Välinge, under 35 U.S.C. § 284, may recover damages adequate to compensate for the infringement of Pergo.

64. Välinge has been, and continues to be, damaged and irreparably harmed by the infringement of Pergo, which will continue unless this Court enjoins Pergo.

65. The infringement of the '579 patent by Pergo has been, and continues to be, deliberate, willful, and knowing.

66. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Välinge to recover treble damages and attorney's fees.

COUNT VII: CONTRIBUTORY/INDUCED INFRINGEMENT OF THE '059 PATENT

67. Valinge restates and realleges the foregoing allegations as if fully stated herein.

68. Pergo, in violation of 35 U.S.C. § 271, has and continues to contribute to and/or induce others to infringe the '059 patent.

69. Välinge, under 35 U.S.C. § 284, may recover damages adequate to compensate for the infringement of Pergo.

70. Välinge has been, and continues to be, damaged and irreparably harmed by the infringement of Pergo, which will continue unless this Court enjoins Pergo.

71. The infringement of the '059 patent by Pergo has been, and continues to be, deliberate, willful, and knowing.

72. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Välinge to recover treble damages and attorney's fees.

COUNT VIII: CONTRIBUTORY/INDUCED INFRINGEMENT OF THE '791 PATENT

73. Valinge restates and realleges the foregoing allegations as if fully stated herein.

74. Pergo, in violation of 35 U.S.C. § 271, has and continues to contribute to and/or induce others to infringe the '791 patent.

75. Välinge, under 35 U.S.C. § 284, may recover damages adequate to compensate for the infringement of Pergo.

76. Välinge has been, and continues to be, damaged and irreparably harmed by the infringement of Pergo, which will continue unless this Court enjoins Pergo.

77. The infringement of the '791 patent by Pergo has been, and continues to be, deliberate, willful, and knowing.

78. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling Välinge to recover treble damages and attorney's fees.

DEMAND FOR JURY TRIAL

79. Valinge demands a trial by jury under Federal Rule of Civil Procedure 39 for all issues triable by jury.

PRAYER FOR RELIEF

Välinge prays for judgment in its favor and against Pergo AG, Pergo AB and Pergo LLC, collectively and individually, as follows:

- (a) That Defendants have infringed, contributed to and/or induced the infringement of one or more claims of each of the Infringed Patents;
- (b) That Defendants' infringement has been willful;
- (c) That this case be declared an exceptional case under 35 U.S.C. § 285;
- (d) That Välinge be awarded damages adequate to compensate Välinge for Defendants' infringement of each of the Infringed Patents, including lost profits, but in no event less than a reasonable royalty;
- (e) That Välinge's damages be trebled;
- (f) That Välinge be awarded its attorney's fees and costs;
- (g) That this Court enjoin Defendants, their officers, directors, principals, agents, servants, employees, successors, assigns, affiliates, and all that are in active concert or participation with them, or any of them, from further infringement of each of the Infringed Patents;
- (h) That Välinge be awarded pre- and post-judgment interest on all damages;
- (i) That Välinge be awarded all its costs and expenses in this action; and

(j) Such further and other relief as the Court may deem just and proper.

Respectfully submitted,

BUCHANAN, INGERSOLL & ROONEY PC

Dated: September 17, 2010

By: 

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