

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

Kason Industries, Inc.	)	
	)	
	)	
Plaintiff,	)	CIVIL ACTION FILE NO.
v.	)	3 : 13 - cv - 12 - TCB
	)	
Component Hardware Group, Inc.	)	<b><u>JURY TRIAL DEMANDED</u></b>
	)	
	)	
Defendant.	)	

**COMPLAINT**

COMES NOW Plaintiff, Kason Industries, Inc. (Kason), and for its Complaint against Defendant, Component Hardware Group, Inc. (CHG), states the following:

**THE PARTIES**

1. Kason is a corporation organized under the laws of the State of New York, with its principal place of business in Newnan, Georgia.

2. Upon information and belief, Defendant CHG is a corporation organized under the laws of the State of Delaware, with its principal place of business in Lakewood, New Jersey. Defendant can be served through its registered

agent Corporation Service Company, 2711 Centerville Rd. Ste. 400, Wilmington, DE 19808.

### **JURISDICTION AND VENUE**

3. This is an action against Defendant CHG for patent infringement arising under the Patent Laws of the United States, specifically 35 U.S.C. § 271 and 35 U.S.C. § 281.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 as it involves a federal question; United States Patent Laws, 28 U.S.C. §1338(a) as it involves federal patent law; and 28 U.S.C. § 1332 as the action is between citizens of different States, and the amount in controversy in this action, exclusive of interest and costs, exceeds the sum of \$75,000.00.

5. In addition, this Court has personal jurisdiction over Defendant because it has knowingly and actively engaged in acts that have infringed, will infringe, and/or aid and abet in the direct infringement of claims of Kason's patent in this judicial district and division.

6. This Court has personal jurisdiction over the Defendant based upon Defendant's sale of goods and the transaction of business in the state of Georgia and sufficient minimum contacts with the state of Georgia.

7. Venue is proper in this District under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1391(c) because a substantial part of the events and injury giving rise to Kason's claims have and continue to occur in this district.

### **THE CONTROVERSY**

8. Since the 1920's, Kason has been and continues to be engaged in the business of developing refrigeration and restaurant equipment hardware in the United States.

9. Over the years, Kason has created hundreds of innovative, reliable products and has grown in size, sophistication and reputation to become a leading manufacturer of commercial refrigeration and restaurant equipment hardware in the United States.

10. Today, Kason is headquartered in Newnan, Georgia where its facilities include nearly 250,000 square feet of manufacturing plants and offices.

11. The commercial refrigeration and restaurant equipment hardware industry into which Kason sells its products includes at least two types of customers: original equipment manufacturers (OEM's) and replacement hardware distributors. OEMs purchase and incorporate certain hardware into the final products they manufacture, such as commercial refrigerators and restaurant

equipment. Replacement parts distributors sell the hardware to commercial equipment owners who need the original hardware replaced.

12. Defendant CHG competes with Kason and sells products to the commercial refrigeration and restaurant equipment hardware industry.

13. On August 11, 2009, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,571,887 B2 (“the ‘887 Patent”) to inventor Burl Finkelstein for the invention entitled “HEIGHT ADJUSTABLE SUPPORT FOR FOOD SERVICE EQUIPMENT”. (See Exhibit A, Plaintiff’s U.S. Patent, Reg. No. 7,571,887 B2.)

14. The ‘887 Patent discloses and claims, *inter alia*, a support for food service equipment that can be adjusted to different heights.

15. The ‘887 Patent is currently in full force and effect. In accordance with 35 U.S.C. § 282, the ‘887 Patent, and each and every claim thereof, is presumed to be valid.

16. All rights, title and interest in and to the ‘887 Patent have been assigned to Kason, which is the sole owner of the ‘887 Patent.

17. Defendant CHG promotes, offers to sell, provides and sells refrigeration and restaurant equipment hardware products, including, but not limited to, its adjustable support ("Accused Product"), which infringes, includes

and/or practices one or more of the inventions claimed in the '887 Patent. (See Exhibit B, photographs of one of Defendant's Accused Products).

18. With the '887 Patent in full force and effect, Defendant CHG has made, used, sold, offered for sale and/or imported refrigeration and restaurant equipment hardware in blatant disregard of Kason's patent rights. Indeed, Defendant's infringing acts, including the introduction, promotion and sale of products covered by Kason's '887 patent, has occurred without Kason's knowledge and without any attempt made by Defendant to secure any rights or authorization from Kason to make, use, import, offer to sell, or sell the patented products.

19. Upon information and belief, Defendant CHG is distributing its adjustable support (Accused Product) throughout the United States and the State of Georgia.

**COUNT I**

**PATENT INFRINGEMENT--U.S. PAT. 5,571,887 B2**

20. Kason hereby incorporates and realleges paragraphs one (1) through nineteen (19) as if fully set forth herein.

21. Defendant has made, used, offered for sale, distributed, sold and/or imported into the United States refrigeration and restaurant equipment hardware products, including, but not limited to, its adjustable support, which infringe the '887 Patent.

22. Defendant has caused and will continue to cause Kason irreparable injury and damage by directly infringing, actively inducing others to infringe and/or contributing to infringement of the '887 Patent. Kason will suffer further irreparably injury, for which Kason has no adequate remedy at law, unless and until Defendant CHG is enjoined from infringing the '887 Patent.

23. Defendant's infringement constitutes willful and intentional infringement making this an exceptional case and justifying the imposition of treble damages and an award of reasonable attorney fees to Kason within the provisions of 35 U.S.C. §§ 284-85.

24. By reason of the acts of Defendant alleged herein, Kason has suffered, is suffering and will continue to suffer irreparable damage, and unless Defendant is restrained from continuing its wrongful acts, the damage to Kason will increase.

### **JURY DEMAND**

Kason demands a trial by jury of all issues so triable.

### **PRAYER FOR RELIEF**

WHEREFORE, Kason respectfully prays for the following relief:

A. That the Court enter judgment that Defendant CHG has infringed, induced infringement of and/or contributorily infringed one or more claims of the '887 Patent in violation of 35 U.S.C. § 271;

B. That the Court issue an injunction requiring Defendant CHG, its officers, agents, servants and employees be enjoined and restrained from making, using, offering to sell, selling, or importing into the United States Defendant's infringing products;

C. That the Court enter judgment and order as part of the injunction Defendant be directed to file with this Court and serve on Plaintiff within thirty days after issuance of the injunction, a report in writing under oath, setting forth in detail the manner and form in which Defendant has complied with the injunction;

D. That as a further part of the injunction Defendant be required to deliver up and destroy all of Defendant's infringing products and all literature, advertisements and other materials displaying Defendant's infringing products and contributing to false and erroneous impressions concerning the nature, characteristics, qualities, and/or geographic origin of its products, services and/or commercial activities;

E. That the Court enter judgment and order that Defendant account for and pay to Plaintiff all damages available to Kason for Defendant's infringement of the '887 Patent, and that the Court increase the amount of damages to three times the amount found or assessed by the Court because of the willful and deliberate nature of the infringement, in accordance with 35 U.S.C. § 284;

F. That the Court declare this an exceptional case and that Plaintiff be granted its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

G. That the Court require Defendant to notify its commercial licensees, dealers, associates, suppliers and customers of said injunction and judgment of this Court;

H. That the Court grant Kason prejudgment interest and costs; and



I. That the Court grant such other and further relief as the Court may deem just.

Respectfully submitted this 22nd day of January, 2013.

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.

s/ Andrew A. Stulce

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## **CERTIFICATE OF COMPLIANCE**

Undersigned counsel certifies the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the court in local rule 5.1 (C) and 7.1 (D).

This 22nd day of January 2013.

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.

s/ Andrew A. Stulce

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