

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JAMES GOURLEY,

Plaintiff,

v.

THE CONTAINER STORE
GROUP, INC.,

Defendant.

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CIVIL ACTION NO. 3:15-cv-1779

DEMAND FOR JURY TRIAL

ORIGINAL COMPLAINT

Plaintiff James Gourley complains and alleges as follows against Defendant The Container Store Group, Inc. ("Defendant").

NATURE OF THE ACTION

1. Mr. Gourley is an individual residing and working in Dallas, Texas.
2. Prior to February 3, 2010, Mr. Gourley conceived of novel and nonobvious mobile electronic device charger mounts, including those claimed in U.S. Patent No. 8,378,625 B2 ("the '625 patent") and U.S. Patent No. 8,536,827 ("the '827 patent"). A true and correct copy of the '625 patent is attached hereto as Exhibit A, and a true and correct copy of the '827 patent is attached as Exhibit B.
3. Defendant has offered for sale and sold Mr. Gourley's patented inventions.
4. This lawsuit seeks damages against Defendant for its patent infringement.

THE PARTIES

5. Mr. Gourley is an individual residing and working in Dallas, Texas.
6. Defendant is a Delaware corporation with its principal place of business at 500 Freeport Parkway, Coppell, Texas, 75019.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction under 28 U.S.C. § 1338(a).

8. Defendant is headquartered in this District, and has and continues to commit acts of infringement in violation of 35 U.S.C. § 271 in Texas and in this District. Defendant, for example, sells and offers for sale infringing products in stores located in this District, including but not limited to its store located at 7700 West Northwest Highway, Dallas, Texas, 75225.

9. This Court therefore has personal jurisdiction over Defendant, and venue is proper within this District pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400(b).

FACTUAL BACKGROUND

Mr. Gourley and the Patents-in-Suit

10. Mr. Gourley is a registered patent attorney residing and working in Dallas, Texas. He is the attorney of record listed on 70 issued United States patents, and he has prosecuted countless other patent applications. He has a Bachelor of Science degree in Chemical Engineering from the University of Oklahoma, and a J.D. from Southern Methodist University's Dedman School of Law.

11. The '625 patent and the '827 patent relate generally to apparatuses for mounting a mobile electronics device to an AC charger.

12. The '625 patent issued from an application, U.S. Patent Application No. 12/699,556 ("the '556 application") filed February 3, 2010. The '556 application published on August 4, 2011, and the original claims therein issued without any amendment during prosecution. Consequently, pursuant to 35 U.S.C. § 154(d), Mr. Gourley is entitled to collect damages for patent infringement beginning on the date of publication of the '556 application from any party with actual notice of the '556 application publication.

13. The '827 patent issued September 17, 2013. The application from which the '827 patent issued was a divisional of the '556 application.

Marketplace Recognition of Mr. Gourley's Inventions

14. In addition to being the sole inventor of the '625 patent and the '827 patent, Mr. Gourley is the founder and Chief Executive Officer of piMount, LLC. He founded piMount, LLC to develop and sell a product embodying an invention disclosed in the '625 patent and the '827 patent.

15. piMount, LLC began selling a product called the "pi Mount" on or about September 3, 2012. The only sales channel through which consumers were initially able to purchase a pi Mount was the website located at URL <http://www.pimount.com>.

16. Despite that piMount, LLC had spent no money on advertising, beginning shortly after the product launched, the pi Mount product received many favorable reviews.

17. On September 6, 2012, The Unofficial Apple Weblog posted a story titled "The pi Mount: it would be irrational not to love this iPhone accessory." The Unofficial Apple Weblog said that the pi Mount was "cleverly designed," "takes no time to install, and the design makes placement of the AC adapter, the mount and the iPhone intuitive."

18. Another Apple-related blog, Cult of Mac, published a review on September 7, 2012. Cult of Mac called the pi Mount "elegant" and "very practical-looking." It also said pi Mount is "as simple and utilitarian as it gets."

19. pi Mount also received a favorable review from the blog GadgetSin, on September 19, 2012. GadgetSin referred to pi Mount as "innovative and practical."

20. A technology writer at the website BitRebels said that the pi Mount is "one of those designs that just makes you wonder, 'Why didn't I think of that?'" The BitRebels writer

went on to say pi Mount is "exactly what so many of us need" and agreed with the reviewers above by saying it is "elegant" and "clever."

21. In February 2013, Website Technology Tell described pi Mount as "easily one of the best enhancements for iPhone charging ever."

22. In addition to the favorable reviews, the large online retailer Amazon has purchased pi Mount units from piMount, LLC and is reselling them on Amazon.com. It is important to note piMount, LLC is not selling pi Mount through Amazon, which almost anyone can do; instead pi Mount is actually a part of the Amazon.com catalogue. All orders placed through Amazon are processed and fulfilled by Amazon with no involvement of piMount, LLC.

Defendant's Sale of Infringing Products

23. Defendant sells and offers for sale at least one product that infringes the '625 patent, including the product it calls "MiniDock". The MiniDock product infringes at least claim 1 of the '625 patent.

24. Evidence of Defendant's sale of the MiniDock product in this District is attached hereto as Exhibit C, which is incorporated herein by reference.

25. Defendant also sells and offers for sale at least one product that infringes the '827 patent, including the products it calls "CableKeep". The CableKeep products infringe at least claim 1 of the '827 patent.

26. Evidence of Defendant's sale of the CableKeep product in this District is attached hereto as Exhibit D, which is incorporated herein by reference.

FIRST CLAIM

Infringement of the '625 patent

27. Mr. Gourley realleges and incorporates by reference the above allegations.

28. Mr. Gourley has ownership of all rights in the '625 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement.

29. The '625 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

30. Defendant has infringed and continues to infringe the '625 patent in this judicial district and elsewhere in Texas, including at least claim 1, without the consent or authorization of Mr. Gourley, by or through its selling and offering to sell infringing products.

31. Mr. Gourley has suffered and is suffering damages as a result of the Defendant's wrongful acts in an amount yet to be determined. Defendant is thus liable to Mr. Gourley in an amount that adequately compensates him for Defendant's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

32. Defendant's acts of infringement are causing irreparable harm to Mr. Gourley and will continue to cause irreparable harm unless enjoined.

SECOND CLAIM

Infringement of the '827 patent

33. Mr. Gourley realleges and incorporates by reference the above allegations.

34. Mr. Gourley has ownership of all rights in the '827 patent, including the right to exclude others and to enforce, sue and recover damages for past and future infringement.

35. The '827 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

36. Defendant has infringed and continue to infringe the '827 patent in this judicial district and elsewhere in Texas, including at least claim 1, without the consent or authorization of Mr. Gourley, by or through its selling and offering to sell infringing products.

37. Mr. Gourley has suffered and is suffering damages as a result of the Defendant's wrongful acts in an amount yet to be determined. Defendant is thus liable to Mr. Gourley in an amount that adequately compensates him for Defendant's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

38. Defendant's acts of infringement are causing irreparable harm to Mr. Gourley and will continue to cause irreparable harm unless enjoined.

JURY DEMAND

39. Mr. Gourley hereby requests a trial by jury pursuant to Federal Rule of Civil Procedure 38.

PRAYER FOR RELIEF

Mr. Gourley requests that the Court find in his favor and against Defendant, and that the Court grant him the following relief:

A. Judgment that one more claims of the '625 patent and '827 patent have been infringed, either literally and/or under the doctrine of equivalents.

B. Judgment that Defendant account for and pay to him all damages to and costs incurred by him because of Defendant's infringing activities and other conduct complained of herein.

C. Judgment that Defendant account for and pay to him a reasonable, on-going, post-judgment royalty because of Defendant's infringing activities and other conduct complained of herein.

D. That he be granted pre-judgment and post-judgment interest on damages caused by Defendant's infringing activities and other conduct complained of herein; and

E. That he be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: May 21, 2015

Respectfully submitted,

**GRIFFITH BATES CHAMPION
& HARPER LLP**

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