

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____

THULE ORGANIZATION SOLUTIONS, INC.,
a Colorado corporation,

Plaintiff,

v.

ROCKETFISH PRODUCTS,
a Minnesota company,

Defendant.

COMPLAINT WITH JURY DEMAND

Plaintiff Thule Organization Solutions, Inc. ("Thule"), by and through its undersigned attorneys, for its Complaint against Rocketfish Products ("Rocketfish") 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, Rocketfish is a company formed under the laws of the state of Minnesota with its principal place of business at 7601 Penn Avenue South, Richfield, Minnesota 55423.

II. JURISDICTION AND VENUE

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

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

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

6. 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

7. 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

8. 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. Defendant's Infringing Conduct

9. Upon information and belief, Defendant has imported, made, caused to be made, and has 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, Defendant has infringed, either literally or under the doctrine of equivalents, Thule's '698 Patent. Photographs of Defendant's "Canvas Spectator Case," are attached as Exhibit 2 and are incorporated by reference.

10. Thule has put Defendant on actual notice of the '698 Patent at least as early as October, 2012. True and correct copies of letters from Thule to Defendant concerning the '698 Patent are attached as Exhibit 3 and incorporated by reference. To date, Defendant has ignored Thule's correspondence.

11. Upon information and belief, Defendant has 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)

12. Thule incorporates paragraphs 1 through 11 as though fully set forth herein.

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

14. Defendant has been and is 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.

15. Defendant has both actual and constructive notice of the '698 Patent.

16. As a result of Defendant's wrongful actions, Thule has suffered commercial harm.

17. Thule has been and continues to be harmed irreparably by Defendant's infringing actions and has no adequate remedy at law.

V. PRAYER FOR RELIEF

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

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

C. That Defendant 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 Defendant has complied with any ordered injunction;

D. That Thule be awarded damages in an amount to be determined at trial for all of Defendant's 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: March 1, 2013

By: s/Ian R. Walsworth

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ATTORNEYS FOR PLAINTIFF
THULE ORGANIZATION SOLUTIONS, INC.