

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**CPUMATE INC. and GOLDEN SUN NEWS
TECHNIQUES CO., LTD.,**

Plaintiffs,

v.

**XIGMATEK CO. LTD. and
XIGMATEK AMERICA INC.,**

Defendants.

CIVIL ACTION NO. 2:14-cv-206

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs CpuMate Inc. and Golden Sun News Techniques Co., Ltd. (“Plaintiffs”) for their Complaint against Xigmatek Co. Ltd. and Xigmatek America Inc. (collectively “the Xigmatek Defendants”), demand a trial by jury and allege as follows:

PARTIES

1. Plaintiff CpuMate, Inc. is a Taiwanese company with a principal address of No. 13, Wu-Chiuan 5th Rd., Wu-Ku Industrial District, Taipei Hsien 248, Taiwan, R.O.C., and Plaintiff Golden Sun News Techniques Co., Ltd. is a Taiwanese company with a principal address of No. 60 Wucyuan Rd., Wugu District, New Taipei City 248, Taiwan, R.O.C.

2. On information and belief, Defendant Xigmatek Co. Ltd. is a Taiwanese corporation with its principal place of business at No. 131-21, Chung-Hsing N. St., San-Chung City, New Taipei City 241, Taiwan.

3. On information and belief Defendant Xigmatek Co. Ltd., is a nonresident of Texas who engages in business in this state, but does not maintain a regular place of business in this state or has a designated agent for service of process in this state.

4. On information and belief, Defendant Xigmatek Co. Ltd. resides in this jurisdiction within the meaning of 28 U.S.C. § 1400(b). This proceeding arises, in part, out of business that Defendant Xigmatek Co. Ltd. has done in this state. Defendant Xigmatek Co. Ltd. may be served with process in Taiwan pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, Article 1, November 15, 1965 T.I.A.S. No. 6638, 20 U.S.T. 361 (U.S. Treaty, 1969). Defendant Xigmatek Co. Ltd. regularly conducts and transacts business in Texas, throughout the United States, and within the Eastern District of Texas, by itself and/or through one or more subsidiaries, affiliates, business divisions, or business units and has committed acts of infringement within the meaning of 28 U.S.C. § 1400(b).

5. On information and belief, Defendant Xigmatek America Inc. is incorporated under the laws of New York with its principal place of business at 47 Mall Dr., Unit 3, Commack, New York, 11725.

6. On information and belief, Dohn Tsang, CEO, located at 47 Mall Drive, Unit 3, Commack, New York 11725 acts as Defendant Xigmatek America Inc.'s agent for service of process.

7. On information and belief, Defendant Xigmatek America Inc. regularly conducts and transacts business in the United States, throughout the State of Texas, and within the Eastern District of Texas, either by itself and/or through one or more subsidiaries, affiliates, business divisions, or business units and has committed acts of infringement within the meaning of 28 U.S.C. § 1400(b).

JURISDICTION AND VENUE

8. This action arises under the Patent Laws of the United States, namely, 35 U.S.C. §§ 1 *et seq.* This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(2) and (c) and/or 1400(b). On information and belief, the Xigmatek Defendants have transacted business in this district and have committed acts of patent infringement in this district, by making, using, selling, and/or offering for sale at least the Gaia II, Praeton LD964s, Loki II, Praeton LD963, Praeton LD964, and Prim SD1484 products.

10. On information and belief, The Xigmatek Defendants are subject to this Court's general and specific personal jurisdiction because: the Xigmatek Defendants have minimum contacts within the State of Texas and the Eastern District of Texas and, pursuant to due process and/or the Texas Long Arm Statute, the Xigmatek Defendants have purposefully availed themselves of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; the Xigmatek Defendants regularly conduct and solicit business within the State of Texas and within the Eastern District of Texas; and causes of action arise directly from the Xigmatek Defendants' business contacts and other activities in the State of Texas and in the Eastern District of Texas.

COUNT I **INFRINGEMENT OF UNITED STATES PATENT NO. 7,950,445**

11. Plaintiffs are the owners of all rights, title and interest to United States Patent No. 7,950,445 ("the '445 Patent") entitled "COMBINED ASSEMBLY OF FIXING BASE AND HEAT PIPE." The '445 Patent was issued on May 31, 2011 after a full and fair examination by

the United States Patent and Trademark Office. The application leading to the '445 Patent was filed on April 6, 2009. Attached as Exhibit "A" is a copy of the '445 Patent.

12. The '445 Patent is generally directed to a combined assembly of a fixing base and heat pipes.

13. On information and belief, the Xigmatek Defendants have been and now are infringing the '445 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by making, using, importing, selling or offering to sell devices having a combined assembly of a fixing base and heat pipes according to the '445 Patent. On information and belief, examples of the Xigmatek Defendants' products that infringe the '445 Patent include their Xigmatek Gaia II, Praeton LD964s, Loki II, Praeton LD963, Praeton LD964, and their Prime SD1484 products. The Xigmatek Defendants are thus liable for infringement of the '445 Patent pursuant to 35 U.S.C. § 271.

14. On information and belief, the Xigmatek Defendants' accused products are known by the Xigmatek Defendants to be especially made or especially adapted for use in a manner that infringes the '445 Patent and are not staple articles of commerce capable of substantial non-infringing uses. The Xigmatek Defendants have thereby contributed to the infringement of the '445 Patent.

15. On information and belief, the Xigmatek Defendants, by their sales and/or offers for sale of the accused products to third parties, have induced and continue to induce acts by third parties that the Xigmatek Defendants knew or should have known would constitute direct infringement of the '445 Patent. The Xigmatek Defendants have actively induced infringement of the '445 Patent by designing the accused products to be capable of infringement and by

promoting and encouraging the use of their products by third parties in ways that infringe the '445 Patent.

16. Given the Plaintiffs and Defendants prior business relationship, Plaintiffs assert that the Xigmatek Defendants' infringement of the '445 Patent is or has been willful.

17. As a result of the Xigmatek Defendants' infringement of the '445 Patent, Plaintiffs have suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless the Xigmatek Defendants infringing activities are enjoined by this Court.

18. Unless a permanent injunction is issued enjoining the Xigmatek Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on or in active concert therewith from infringing the '445 Patent, Plaintiffs will be greatly and irreparably harmed.

COUNT II
INFRINGEMENT OF UNITED STATES PATENT NO. 7,866,043

19. Plaintiffs are the owners of all rights, title and interest to United States Patent No. 7,866,043 ("the '043 Patent") entitled "METHOD OF FLATTING EVAPORATING SECTION OF HEAT PIPE EMBEDDED IN HEAT DISSIPATION DEVICE." The '043 Patent was issued on January 11, 2011 after a full and fair examination by the United States Patent and Trademark Office. The application leading to the '043 Patent was filed on April 28, 2008. Attached as Exhibit "B" is a copy of the '043 Patent.

20. The '043 Patent is generally directed to a method of flattening evaporating section of heat pipe embedded in heat dissipation device.

21. On information and belief, the Xigmatek Defendants have been and now are infringing the '043 Patent in the State of Texas, in this judicial district, and elsewhere in the

United States by making, using, importing, selling or offering to sell devices having a method of flattening evaporating section of heat pipe embedded in heat dissipation device according to the '043 Patent. On information and belief, examples of the Xigmatek Defendants products that infringe the '043 Patent include their Xigmatek Gaia II, Praeton LD964s, Loki II, Praeton LD963, Praeton LD964, and Prime SD1484 products. The Xigmatek Defendants are thus liable for infringement of the '043 Patent pursuant to 35 U.S.C. § 271.

22. On information and belief, the insulated container in the Xigmatek Defendants accused products are known by the Xigmatek Defendants to be especially made or especially adapted for use in a manner that infringes the '043 Patent and are not staple articles of commerce capable of substantial non-infringing uses. The Xigmatek Defendants have thereby contributed to the infringement of the '043 Patent.

23. On information and belief, the Xigmatek Defendants, by their sales and/or offers for sale of the accused products to third parties, have induced and continue to induce acts by third parties that the Xigmatek Defendants knew or should have known would constitute direct infringement of the '043 Patent. The Xigmatek Defendants have actively induced infringement of the '043 Patent by designing the accused products to be capable of infringement and by promoting and encouraging the use of their products by third parties in ways that infringe the '043 Patent.

24. Given the Plaintiffs and Defendants prior business relationship, Plaintiffs assert that Xigmatek's infringement of the '043 Patent is or has been willful.

25. As a result of Xigmatek's infringement of the '043 Patent, Plaintiffs have suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Xigmatek's infringing activities are enjoined by this Court.

26. Unless a permanent injunction is issued enjoining Xigmatek and their agents, servants, employees, representatives, affiliates, and all others acting on or in active concert therewith from infringing the '043 Patent, Plaintiffs will be greatly and irreparably harmed.

COUNT III
INFRINGEMENT OF UNITED STATES PATENT NO. 8,161,644

27. Plaintiffs are the owners of all rights, title and interest to United States Patent No. 8,161,644 (“the ‘644 Patent”) entitled “LEVELING METHOD FOR BURYING EVAPORATING SECTION OF HEAT PIPE INTO THERMALLY CONDUCTIVE SEAT.” The ‘644 Patent was issued on April 24, 2012 after a full and fair examination by the United States Patent and Trademark Office. The application leading to the ‘644 Patent was filed on June 3, 2009. Attached as Exhibit “C” is a copy of the ‘644 Patent.

28. The ‘644 Patent is generally directed to leveling method for burying evaporating section of heat pipe into thermally conductive seat.

29. On information and belief, the Xigmatek Defendants have been and now are infringing the ‘644 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by making, using, importing, selling or offering to sell devices having a leveling method for burying evaporating section of heat pipe into thermally conductive seat according to the ‘644 Patent. On information and belief, examples of Xigmatek’s products that infringe the ‘644 Patent include, their Xigmatek Gaia II, Praeton LD964s, Loki II, Praeton LD963, Praeton LD964, and Prime SD1484 products. The Xigmatek Defendants are thus liable for infringement of the ‘644 Patent pursuant to 35 U.S.C. § 271.

30. On information and belief, the Xigmatek Defendants accused products are known by the Xigmatek Defendants to be especially made or especially adapted for use in a manner that infringes the ‘644 Patent and are not staple articles of commerce capable of substantial non-

infringing uses. The Xigmatek Defendants have thereby contributed to the infringement of the '644 Patent.

31. On information and belief, the Xigmatek Defendants, by their sales and/or offers for sale of the accused products to third parties, have induced and continue to induce acts by third parties that the Xigmatek Defendants knew or should have known would constitute direct infringement of the '644 Patent. The Xigmatek Defendants have actively induced infringement of the '644 Patent by designing the accused products to be capable of infringement and by promoting and encouraging the use of their products by third parties in ways that infringe the '644 Patent.

32. Given the Plaintiffs and Defendants prior business relationship, Plaintiffs assert that the Xigmatek Defendants' infringement of the '644 Patent is or has been willful.

33. As a result of the Xigmatek Defendants' infringement of the '644 Patent, Plaintiffs have suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless the Xigmatek Defendants' infringing activities are enjoined by this Court.

34. Unless a permanent injunction is issued enjoining the Xigmatek Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on or in active concert therewith from infringing the '644 Patent, Plaintiffs will be greatly and irreparably harmed.

COUNT IV
INFRINGEMENT OF UNITED STATES PATENT NO. 8,387,250

35. Plaintiffs are the owners of all rights, title and interest to United States Patent No. 8,387,250 ("the '250 Patent") entitled "METHOD FOR EMBEDDING HEAT PIPE INTO HEAT-CONDUCTING SEAT." The '250 Patent was issued on March 5, 2013 after a full and

fair examination by the United States Patent and Trademark Office. The application leading to the '250 Patent was filed on November 4, 2008. Attached as Exhibit "D" is a copy of the '250 Patent.

36. The '250 Patent is generally directed to a method for embedding heat pipe into heat-conducting seat.

37. On information and belief, the Xigmatek Defendants have been and now are infringing the '250 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by making, using, importing, selling or offering to sell devices having a method for embedding heat pipe into heat-conducting seat according to the '250 Patent. On information and belief, examples of the Xigmatek Defendants' products that infringe the '250 Patent include, their Xigmatek Gaia II, Praeton LD964s, Loki II, Praeton LD963, Praeton LD964, and Prime SD1484 products. The Xigmatek Defendants are thus liable for infringement of the '250 Patent pursuant to 35 U.S.C. § 271.

38. On information and belief, the Xigmatek Defendants' accused products are known by the Xigmatek Defendants to be especially made or especially adapted for use in a manner that infringes the '250 Patent and are not staple articles of commerce capable of substantial non-infringing uses. The Xigmatek Defendants have thereby contributed to the infringement of the '250 Patent.

39. On information and belief, the Xigmatek Defendants by their sales and/or offers for sale of the accused products to third parties, have induced and continue to induce acts by third parties that the Xigmatek Defendants knew or should have known would constitute direct infringement of the '250 Patent. The Xigmatek Defendants have actively induced infringement of the '250 Patent by designing the accused products to be capable of infringement and by

promoting and encouraging the use of their products by third parties in ways that infringe the '250 Patent.

40. Given the Plaintiffs and Defendants prior business relationship, Plaintiffs assert that the Xigmatek Defendants' infringement of the '250 Patent is or has been willful.

41. As a result of the Xigmatek Defendants' infringement of the '250 Patent, Plaintiffs have suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless the Xigmatek Defendants' infringing activities are enjoined by this Court.

42. Unless a permanent injunction is issued enjoining the Xigmatek Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on or in active concert therewith from infringing the '250 Patent, Plaintiffs will be greatly and irreparably harmed.

COUNT V
INFRINGEMENT OF UNITED STATES PATENT NO. 8,235,768

43. Plaintiffs are the owners of all rights, title and interest to United States Patent No. 8,235,768 ("the '768 Patent") entitled "COOLER WITH GROUND HEATED PLANE AND GRINDING METHOD AND APPARATUS THEREOF." The '768 Patent was issued on August 7, 2012 after a full and fair examination by the United States Patent and Trademark Office. The application leading to the '768 Patent was filed on June 10, 2009. Attached as Exhibit "E" is a copy of the '768 Patent.

44. The '768 Patent is generally directed to a method for making heated plane of a heat dissipation device.

45. On information and belief, the Xigmatek Defendants have been and now are infringing the '768 Patent in the State of Texas, in this judicial district, and elsewhere in the

United States by making, using, importing, selling or offering to sell devices having a method for making heated plane of a heat dissipation device according to the '768 Patent. On information and belief, examples of the Xigmatek Defendants' products that infringe the '768 Patent include, its Xigmatek Gaia II, Praeton LD964s, Loki II, Praeton LD963, Praeton LD964, and Prime SD1484. The Xigmatek Defendants are thus liable for infringement of the '768 Patent pursuant to 35 U.S.C. § 271.

46. On information and belief, the Xigmatek Defendants' accused products are known by the Xigmatek Defendants to be especially made or especially adapted for use in a manner that infringes the '768 Patent and are not staple articles of commerce capable of substantial non-infringing uses. The Xigmatek Defendants have thereby contributed to the infringement of the '768 Patent.

47. On information and belief, the Xigmatek Defendants, by their sales and/or offers for sale of the accused products to third parties, have induced and continue to induce acts by third parties that the Xigmatek Defendants knew or should have known would constitute direct infringement of the '768 Patent. The Xigmatek Defendants have actively induced infringement of the '768 Patent by designing the accused products to be capable of infringement and by promoting and encouraging the use of their products by third parties in ways that infringe the '768 Patent.

48. Given the Plaintiffs and Defendants prior business relationship, Plaintiffs assert that the Xigmatek Defendants' infringement of the '768 Patent is or has been willful.

49. As a result of the Xigmatek Defendants' infringement of the '768 Patent, Plaintiffs have suffered monetary damages in an amount not yet determined, and will continue to

suffer damages in the future unless the Xigmatek Defendants' infringing activities are enjoined by this Court.

50. Unless a permanent injunction is issued enjoining the Xigmatek Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on or in active concert therewith from infringing the '768 Patent, Plaintiffs will be greatly and irreparably harmed.

COUNT VI
INFRINGEMENT OF UNITED STATES PATENT NO. 8,328,601

51. Plaintiffs are the owners of all rights, title and interest to United States Patent No. 8,328,601 ("the '601 Patent") entitled "APPARATUS FOR GRINDING HEATED PLANE OF COOLER." The '601 Patent was issued on December 11, 2012 after a full and fair examination by the United States Patent and Trademark Office. The application leading to the '601 Patent was filed on March 1, 2012. Attached as Exhibit "F" is a copy of the '601 Patent.

52. The '601 Patent is generally directed to a method for making heated plane of a heat dissipation device.

53. On information and belief, the Xigmatek Defendants have been and now are infringing the '601 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by making, using, importing, selling or offering to sell devices having a method for making heated plane of a heat dissipation device according to the '601 Patent. On information and belief, examples of the Xigmatek Defendants' products that infringe the '601 Patent include, their Xigmatek Gaia II, Praeton LD964s, Loki II, Praeton LD963, Praeton LD964, and Prime SD1484 products. The Xigmatek Defendants are thus liable for infringement of the '601 Patent pursuant to 35 U.S.C. § 271.

54. On information and belief, the Xigmatek Defendants' accused products are known by the Xigmatek Defendants to be especially made or especially adapted for use in a manner that infringes the '601 Patent and are not staple articles of commerce capable of substantial non-infringing uses. The Xigmatek Defendants have thereby contributed to the infringement of the '601 Patent.

55. On information and belief, the Xigmatek Defendants by their sales and/or offers for sale of the accused products to third parties, have induced and continue to induce acts by third parties that the Xigmatek Defendants knew or should have known would constitute direct infringement of the '601 Patent. The Xigmatek Defendants have actively induced infringement of the '601 Patent by designing the accused products to be capable of infringement and by promoting and encouraging the use of their products by third parties in ways that infringe the '601 Patent.

56. Given the Plaintiffs and Defendants prior business relationship, Plaintiffs assert that the Xigmatek Defendants' infringement of the '601 Patent is or has been willful.

57. As a result of the Xigmatek Defendants' infringement of the '601 Patent, Plaintiffs have suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless the Xigmatek Defendants' infringing activities are enjoined by this Court.

58. Unless a permanent injunction is issued enjoining the Xigmatek Defendants and their agents, servants, employees, representatives, affiliates, and all others acting on or in active concert therewith from infringing the '601 Patent, Plaintiffs will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter:

A. A judgment in favor of Plaintiffs that the Xigmatek Defendants have infringed the '445 Patent, the '043 Patent, the '644 Patent, the '250 Patent, the '768 Patent, and the '601 Patent;

B. A permanent injunction enjoining the Xigmatek Defendants and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringing the '445 Patent, the '043 Patent, the '644 Patent, the '250 Patent, the '768 Patent, and the '601 Patent;

C. A judgment and order requiring the Xigmatek Defendants to pay Plaintiffs their damages, costs, expenses, and prejudgment and post-judgment interest for the Xigmatek Defendants' infringement of the '445 Patent, the '043 Patent, the '644 Patent, the '250 Patent, the '768 Patent, and the '601 Patent as provided under 35 U.S.C. § 284;

D. An award to Plaintiffs for enhanced damages resulting from the knowing, deliberate, and willful nature of the Xigmatek Defendants' prohibited conduct, with notice being made at least as early as the date of the filing of this Complaint, as provided under 35 U.S.C. § 284;

E. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiffs their reasonable attorneys' fees; and

F. Any and all other relief to which Plaintiffs may show themselves to be entitled.

DEMAND FOR JURY TRIAL

Plaintiffs, under Rule 38 of the Federal Rules of Civil Procedure, request a trial by jury of any issues so triable by right.

Dated: March 11, 2014

Respectfully submitted,

By: /s/ Winston O. Huff

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ATTORNEYS FOR PLAINTIFFS
CPUMATE INC. and GOLDEN SUN
NEWS TECHNIQUES CO., LTD.

CERTIFICATE OF FILING

I hereby certify that on March 11, 2014 I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system.

/s/ Winston O. Huff

Winston O. Huff