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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

THE CAMPBELL PET COMPANY,  
  
Plaintiff,  
  
v.  
  
THERESA MIALE; and  
TY-LIFT ENTERPRISES, a California  
Corporation,  
  
Defendants.

No.  
  
**COMPLAINT**  
  
**JURY TRIAL DEMANDED**

COMES NOW Plaintiff, THE CAMPBELL PET COMPANY, by undersigned counsel, and asserts this Complaint against Defendants, THERESA MIALE and TY-LIFT ENTERPRISES for a Declaration of Non-Infringement and/or Invalidity of U.S. Patent Nos. 6,199,508 (the '508 Patent) and 6,230,662 (the '662 Patent) which Defendants threatened to enforce against Plaintiff, and alleges as follows:

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 2201 *et seq.* and 28 U.S.C. §§ 1331 and 1338 as an action arising under the Patent Laws of the United States 35 U.S.C. §§ 1 *et seq.*

2. Plaintiff is informed and believes, and on that basis alleges, that this



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3 Court has personal jurisdiction over Defendants; that Defendants have, among  
4 other things, recently traveled to and/or distributed, sold or offered for sale products  
5 including products that are the subject of this litigation, within this state; have  
6 manufactured or distributed products used or consumed with the state of  
7 Washington in the ordinary course of trade; and/or have otherwise made or  
8 established contacts within the state of Washington sufficient to permit the exercise  
9 of personal jurisdiction.

10 3. On information and belief, venue lies in this district pursuant to 28  
11 U.S.C. §§ 1391(b) and (c).

#### 12 PARTIES

13 4. Plaintiff, The Campbell Pet Company, is a Washington corporation  
14 which is located in Vancouver, Washington.

15 5. Plaintiff is informed and believes and on that basis alleges that  
16 Defendant Theresa Miale is a California individual and her company, Ty-Lift  
17 Enterprises is a California corporation, doing business in the State of Washington.  
18

#### 19 COMMON ALLEGATIONS

20 6. Plaintiff manufactures pet accessories and products, including,  
21 among other things, a product called the Mobile Folding Stretcher for transporting  
22 injured animals.

23 7. Plaintiff is informed and on that basis alleges that Theresa Miale  
24 owns and/or controls Ty-Lift Enterprises.

25 8. Plaintiff is informed and on that basis alleges that Theresa Miale is  
26 the owner of the '508 and '662 patents, but claims to own the through Ty-Lift  
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3 Enterprises.

4 9. Plaintiff is informed and on that basis alleges that Theresa Miale  
5 individually and/or in conjunction with or on behalf of Ty-Lift Enterprises sells  
6 and/or offers to sell products in the state of Washington; that Miale and/or her  
7 agents attended a multi-day trade show in Seattle, Washington in May of 2007 to  
8 advertise and promote sales of their products in Washington and other states; and  
9 at that trade show, after viewing an example of Plaintiff's Mobile Folding Stretcher  
10 alleged to Plaintiff's employees then and there that the Mobile Folding Stretcher  
11 infringed one or more of Miale/Ty-Lift Enterprises patents. True and correct copies  
12 of the '508 and '662 Patents and pertinent prosecution file wrapper history are  
13 attached hereto as **Exhibits A** ('508 Patent), **B** ('662 Patent), **C** (pertinent pages  
14 from '508 file wrapper), **D** (pertinent pages from '662 file wrapper), and **E** (pertinent  
15 pages from related Application No. 10/635,670 file wrapper), and incorporated  
16 herein by reference.  
17

18 10. Shortly following that allegation of infringement by Miale/Ty-Lift,  
19 Plaintiff received a demand letter from F.T. Alexandra Mahaney, of the law firm  
20 Wilson Sonsini Goodrich and Rosati, addressed to Plaintiff in Vancouver,  
21 Washington, in which Miale/Ty-Lift allege Plaintiff's Mobile Folding Stretcher  
22 infringes claims of the '508 and '662 Patents. A claim comparison chart was  
23 included in this letter alleging that Plaintiff's Folding Stretcher literally infringed at  
24 least claim 3 of the '508 patent and claim 22 of the '662 patent, which were  
25 included as exhibits to the demand letter stating, "Your Mobile Folding Stretcher  
26 clearly falls within several claims of these patents, as shown by the following  
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2 comparison..." A true and correct copy of this demand letter is attached hereto as  
3 **Exhibit F** and is hereby incorporated by reference.  
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5 11. Plaintiff's Mobile Folding Stretcher is currently sold and offered for  
6 sale by Plaintiff in the United States. Plaintiff intends to continue selling this  
7 product in the future and intends to offer new products similar to its Mobile Folding  
8 Stretcher in the future.

9 FIRST CLAIM FOR RELIEF

10 12. Plaintiff re-alleges every paragraph in this Complaint.

11 13. An actual case or controversy exists between the parties because  
12 Defendants allege that Plaintiff has and is infringing certain U.S. patents owned by  
13 Defendants. More specifically, Defendants have alleged with specificity in a  
14 demand letter from a retained law firm that Plaintiff's Mobile Folding Stretcher  
15 directly infringes claims 3 of the '508 patent and 22 of the '662 patent. This letter  
16 followed a verbal allegation of infringement communicated by Ms. Miale of TyLift to  
17 an employee of Plaintiff. Under the circumstances, Defendants' demand letter  
18 demonstrates a concrete and immediate intent by Defendants to attempt to enforce  
19 their patents against Plaintiff.  
20

21 14. Plaintiff is informed and believes, and on that basis alleges, that none  
22 of Plaintiff's products infringe any valid claims of the '508 and '662 Patents, and  
23 specifically the Mobile Folding Stretcher product does not infringe any valid claims  
24 of the '508 or '662 Patents.

25 15. Plaintiff is informed and believes, and on that basis alleges, that the  
26 '508 and '662 patents are invalid under 35 U.S.C. §§ 102 and/or 103.  
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3 16. Plaintiff is entitled to a declaration that it does not infringe any valid  
4 claim of the '508 and '662 patents by selling or offering to sell its Mobile Folding  
5 Stretcher product, or any other of Plaintiff's products.

6 PRAYER FOR RELIEF

7 WHEREFORE Plaintiff prays for judgment in its favor as follows:

8 A. Judging in favor of Plaintiff and against Defendants on all claims.

9 B. Declaring that Plaintiff has not infringed and is not infringing any valid  
10 claim of '508 and '662 Patents by making, selling or offering to sell its Mobile  
11 Folding Stretcher product;

12 C. Declaring U.S. Patents Nos. 6,199,508 and 6,230,662 invalid.

13 D. Awarding Plaintiff its reasonable attorneys' fees pursuant to 35 U.S.C.  
14 § 285, and other applicable laws;

15 E. Awarding Plaintiff its costs of suit, and post-judgment interest; and

16 F. Awarding Plaintiff such other and further relief as the Court deems  
17 just and appropriate.

18  
19 DEMAND FOR JURY TRIAL

20 Plaintiff requests a trial by jury of all issues so triable.

21  
22 DATED THIS July 25, 2007

Respectfully submitted,

23 /s/ Kurt M. Rylander

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