UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

Twitch LLC d/b/a Hala Gear, **Plaintiff,** **v.** **Bote, LLC,** **Defendant.**	**Case No. 6:24-cv-00233** **Jury Trial Demanded**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Twitch LLC d/b/a Hala Gear ("Hala Gear"), for its Complaint against Defendant Bote, LLC ("Bote"), alleges as follows:

Jurisdiction and Venue

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq*.

2. This Court has subject matter jurisdiction over this action pursuant to at least 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Bote because, *inter alia*, Bote is purposefully and intentionally availing itself of the privileges of doing business in the State of Texas, including in this District. Among other things, Bote has a regular and established place of business in this District, Bote has made, used, offered for sale, sold, and/or imported, and continues to make, use, offer for sale, sell, and/or import infringing products to customers and/or potential customers, including in this District, and Bote's unlawful acts that give rise to this lawsuit and harm to Hala Gear have occurred and are occurring in the State of Texas, including in this District.

4. Venue is proper in this District pursuant to at least 28 U.S.C. § 1400(b), including because Bote has a regular and established place of business in this District and Bote has committed acts of patent infringement in this District.

The Parties

5. Hala Gear is a company organized and existing under the laws of the State of Colorado with a principal place of business at 1804 13th St, Steamboat Springs, CO 80487.

6. On information and belief, Bote is a company organized and existing under the laws of the State of Florida with a regular and established place of business in this District at 312 Barton Springs Rd., Austin, Texas 78704, and also with a place of business at 2401 Dr. Martin Luther King Jr Street N., Saint Petersburg, Florida 33704.

Hala Gear's Intellectual Property

7. Hala Gear owns the entire right, title, and interest to the Patents-in-Suit, U.S. Patent Nos. 9,862,466 ("the '466 Patent") and 10,479,458 ("the '458 Patent"), both related to an inflatable paddle board.

8. The '466 Patent is titled "Inflatable Paddle Board." On January 9, 2018, the '466 Patent was duly and legally issued by the U.S. Patent Office to Hala Gear. A copy of the '466 Patent is attached as Exhibit 1.

9. The '458 Patent is titled "Inflatable Paddle Board." On November 19, 2019, the '458 Patent was duly and legally issued by the U.S. Patent Office to Hala Gear. A copy of the '458 Patent is attached as Exhibit 2.

General Allegations — Bote's Patent Infringement

10. Bote has infringed, and continues to infringe, the '466 Patent and the '458 Patent, including by making, using, offering for sale, selling, and/or importing certain inflatable paddle boards.

11. Bote's infringing products include at least Bote's Rackham Aero Inflatable Paddle Board, Rover Aero Inflatable Micro Skiff, and Zeppelin Inflatable SUP ("Infringing Boards").

12. Bote's Rackham Aero Inflatable Paddle Board is sold in at least the following models: Rackham Aero 11′ Classic Cypress Inflatable Paddle Board; Rackham Aero 11′ Full Trax Jade Inflatable Paddle Board; Rackham Aero 12′4″ Classic Cypress Inflatable Paddle Board; Rackham Aero 12′4″ Bug Slinger Silver King Inflatable Paddle Board; Rackham Aero 12′4″ Full Trax Jade Inflatable Paddle Board; Rackham Aero 12′4″ Verge Camo Inflatable Paddle Board; Rackham Aero 12′4″ Bug Slinger Backwater Inflatable Paddle Board; Rackham Aero 12′4″ Full Trax Jade Inflatable Paddle Board Package; Rackham Aero 12′4″ Verge Camo Inflatable Paddle Board Package; Rackham Aero 12′4″ Bug Slinger Silver King Package; Rackham Aero 12′4″ Classic Cypress Inflatable Paddle Board Package. Exemplary images of Bote's Rackham Aero Inflatable Paddle Board are shown below:

Illustration 1: Exemplary Images of Bote's Rackham Aero Inflatable Paddle Board

13. Bote's Rover Aero Inflatable Micro Skiff is sold in at least the following models: Rover Aero 12′6″ Bug Slinger Silver King Inflatable Micro Skiff; Rover Aero 12′6″ Classic Teak Inflatable Micro Skiff; Rover Aero 12′6″ Verge Camo Inflatable Micro Skiff; Rover Aero 12′6″ Bug Slinger Silver King Inflatable Micro Skiff Essentials Package; Rover Aero 12′6″ Verge Camo Inflatable Micro Skiff Essentials Package. Exemplary images of Bote's Aero Inflatable Micro Skiff are shown below:

Illustration 2: Exemplary Images of Bote's Rover Aero Inflatable Micro Skiff

14. Exemplary images of Bote's Zeppelin Inflatable SUP are shown below:

Illustration 3: Exemplary Images of Bote's Zeppelin Inflatable SUP

15. Hala Gear tried to resolve this dispute with Bote before bringing this lawsuit, including engaging in discussions with Bote about, *inter alia*, Hala Gear's patent rights and of Bote's infringements. Bote refused to stop its infringements and refused to compensate Hala Gear for Bote's infringements, and Hala Gear therefore filed this lawsuit.

Count I:
Patent Infringement of U.S. Patent No. 9,862,466 Under 35 U.S.C. § 271

16. Hala Gear realleges and incorporates the allegations set forth in paragraphs 1 through 15 as though fully set forth herein.

17. Bote has infringed and continues to infringe the '466 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's Infringing Boards, which include each and every element of one or more claims of the '466 Patent, either literally or through the doctrine of equivalents, including at least claim 15.

18. Claim 15 of the '466 Patent recites "[a]n inflatable paddle board, comprising: a lower inflatable chamber forming a stand-up board; an upper inflatable chamber connected to the lower inflatable chamber, the upper inflatable chamber forming a rail around at least a portion of the lower inflatable chamber, and the combination of the lower and upper inflatable chambers forming a curve-shaped front hull; and a tent covering between the lower inflatable chamber and the upper inflatable chamber."

19. Bote's Infringing Boards infringe at least claim 15 of the '466 Patent because they are inflatable paddle boards that include all of the claim elements of at least claim 15, either literally or through the doctrine of equivalents, including "a lower inflatable chamber forming a stand-up board," "an upper inflatable chamber connected to the lower inflatable chamber," "the upper inflatable chamber forming a rail around at least a portion of the lower inflatable chamber,"

"the combination of the lower and upper inflatable chambers forming a curve-shaped front hull," and "a tent covering between the lower inflatable chamber and the upper inflatable chamber."

20. Bote's acts of infringement have been without express or implied license by Hala Gear, are in violation of Hala Gear's rights, and will continue unless enjoined by this Court.

21. Bote's infringement of the '466 Patent has also been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of Hala Gear, Hala Gear's rights, and Bote's continuing disregard for Hala Gear's rights.

22. Hala Gear has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, and 285.

23. Bote also has caused, is causing, and will continue to cause irreparable harm to Hala Gear for which there is no adequate remedy at law and for which Hala Gear is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count II:
Patent Infringement of U.S. Patent No. 10,479,458 Under 35 U.S.C. § 271

24. Hala Gear realleges and incorporates the allegations set forth in paragraphs 1 through 15 as though fully set forth herein.

25. Bote has infringed and continues to infringe the '458 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's Infringing Boards, which include each and every element of one or more claims of the '458 Patent, either literally or through the doctrine of equivalents, including at least claim 1.

26. Claim 1 of the '458 Patent recites "[a]n inflatable paddle board, comprising: an inflatable stand-up board chamber; stacked sidewalls to form a rail around at least a portion of a

side of the inflatable stand-up board chamber; and a tent covering between the inflatable stand-up board chamber and the rail."

27. Bote's Infringing Boards infringe at least claim 1 of the '458 Patent because they are inflatable paddle boards that include all of the claim elements of at least claim 1, either literally or through the doctrine of equivalents, including "an inflatable stand-up board chamber," "stacked sidewalls to form a rail around at least a portion of a side of the inflatable stand-up board chamber," and "a tent covering between the inflatable stand-up board chamber and the rail."

28. Bote's acts of infringement have been without express or implied license by Hala Gear, are in violation of Hala Gear's rights, and will continue unless enjoined by this Court.

29. Bote's infringement of the '458 Patent has also been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of Hala Gear, Hala Gear's rights, and Bote's continuing disregard for Hala Gear's rights.

30. Hala Gear has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, and 285.

31. Bote also has caused, is causing, and will continue to cause irreparable harm to Hala Gear for which there is no adequate remedy at law and for which Hala Gear is entitled to injunctive relief under at least 35 U.S.C. § 283.

Demand for Jury Trial

Hala Gear hereby demands a jury trial on all issues so triable.

Relief Sought

WHEREFORE, Plaintiff Hala Gear respectfully prays for:

32. Judgment that Bote has (i) infringed the ’466 Patent in violation of § 271 of Title 35 of the United States Code; and (ii) infringed the ’458 Patent in violation of § 271 of Title 35 of the United States Code.

33. Judgment that Bote has (i) willfully infringed the ’466 Patent; and (ii) willfully infringed the ’458 Patent.

34. An injunction against further infringement of Hala Gear’s patents by Bote and each of Bote’s agents, employees, servants, attorneys, successors and assigns, and all others in privity or acting in concert with any of them, pursuant to at least 35 U.S.C. § 283;

35. An award of damages to Hala Gear for Bote’s patent infringements pursuant at least to 35 U.S.C. § 284, together with prejudgment interest and costs and reasonable attorney fees, pursuant at least to 35 U.S.C. §§ 284 and 285, and for enhanced damages for Bote’s willful patent infringements pursuant at least to 35 U.S.C. § 284; and

36. Such other and further relief as this Court deems just and proper.

Dated: May 3, 2024

Respectfully submitted,

By: /s/Michael L. Krashin

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