

3. Comfort Revolution manufactures, imports, offers for sale, sells, and/or distributes bedding products, including pillows, that infringe Bedgear's patents.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 U.S.C. §§ 1, *et seq.* Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. On information and belief, Comfort Revolution is subject to this Court's specific and general personal jurisdiction, pursuant to due process and/or the New York Long Arm Statute, due at least to its substantial ongoing business activities in this forum, including regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to persons or entities in New York and this District.

6. On information and belief, Comfort Revolution has itself, and through various third party retailers, repeatedly transacted business with customers in New York and within this District, and has advertised, promoted, sold, and shipped infringing products into New York, including this District, without Bedgear's authorization or permission. By way of example, on information and belief, third party retailers through which Comfort Revolution distributes, offers for sale, and sells infringing products within this District include, a Bed Bath & Beyond store, located in Westbury, NY, and a Macy's Department store, located in Garden City, NY. On information and belief, Comfort Revolution operates a showroom located at 230 Fifth Avenue, New York, NY where it advertises, promotes, offers for sale and/or sells infringing products.

7. On information and belief, Comfort Revolution also maintains and operates one or more websites on the Internet, including a website at: <http://www.comfortrevolution.com>,

which are operational twenty-four (24) hours a day, seven days a week, are accessible to and regularly accessed by residents of this District and other persons throughout the United States, and through which Comfort Revolution advertises, promotes, offers for sale, and sells its products. On information and belief, Comfort Revolution has, through its websites and/or other authorized third party websites, repeatedly transacted business with customers throughout the United States, including customers within this District, and has advertised, promoted, offered for sale, sold, and shipped infringing products into this District without Bedgear's authorization or permission. Further, on information and belief, Comfort Revolution has derived substantial revenue from interstate commerce and has interjected itself into this District by its operation of a nationwide business through commercial websites and third party distributors or resellers whereby Comfort Revolution has sold and continues to sell infringing products.

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) at least because Comfort Revolution is subject to personal jurisdiction in this District, does business in the State of New York and this District, and has committed and continues to commit acts of infringement in this District.

BACKGROUND

Bedgear's Bedding Innovations

9. Bedgear is a leading manufacturer of specialty bedding products and sleep essentials, including pillows and pillow covers, pillow protectors, mattress protectors and encasements, mattress toppers, blankets, and bed sheets.

10. Bedgear's philosophy is centered around designing, developing, and delivering bedding products that provide individuals with improved recovery during sleep in order to enhance their active lifestyles.

11. Bedgear was founded by nationally-recognized entrepreneur, Eugene Alletto, whose two decades of prior expertise with home furnishings and textiles laid the foundation for Bedgear's unique approach to fabrics and manufacturing techniques, as well as its innovations across a wide array of specialty bedding products.

12. Since its inception, Bedgear has been dedicated to developing and perfecting bedding products and sleep essentials that are engineered using advanced textile fabrication techniques. Bedgear utilizes these proprietary technologies and techniques to provide consumers with a variety of high-tech, high-quality bedding products that have new and improved functional characteristics designed to improve sleep quality.

13. Due to its many innovations and novel high-tech approach to bedding products, Bedgear is well-known for being a pioneer of performance bedding.

14. For example, Bedgear has been referred to in the media as "the company that invented 'performance sleep,'" based on its performance branded line of bedding products. (Bloomberg, "Small to Big" video segment, "The Company That Invented 'Performance Sleep,'" November 4, 2014). Bedgear and its performance branded bedding products have also been featured on numerous other media networks and outlets, including NBC (NBC Weekend Today New York, "Best Gifts for Mother's Day," May 3, 2015), KHONTV (KHONTV, "Is Your Pillow Right For You," February 27, 2015), FIOS1 (FIOS1, "Money & Main\$trete," January 29, 2015), ABC (ABC World News Now, "Sweet Dreams – High-Tech Bedding," October 23, 2014), and The Daily (The Daily news app, "Sleeping on a Fortune," December 11, 2012).

15. Bedgear has also been selected as the specialty bedding partner of a number of nationally-recognized professional sports teams, including the New York Mets, the Detroit Tigers, the San Diego Padres, the Denver Broncos, and the New York Islanders.

16. One area in which Bedgear has devoted considerable resources and effort is in creating and developing pillows and pillow covers. Bedgear's founder, Eugene Alletto, came up with the idea of performance pillows and invented ground-breaking solutions that substantially improve an individual's sleep environment and sleep quality through novel pillow designs and innovative fabrics and materials.

17. Bedgear was the first to develop and introduce a line of performance pillows that utilize and implement these significant innovations. Among other things, Bedgear's inventive performance pillows provide improved head and neck support for different types of sleepers, enhance ventilation and air flow through the pillows, and provide a cooling and wicking effect during use.

18. Bedgear has protected various aspects of its inventive solutions and cutting-edge technologies with a range of intellectual property rights. In particular, as a result of its significant innovations, Bedgear has been granted a number of patents by the U.S. Patent and Trademark Office ("the Patent Office"), which protect various aspects of its novel performance pillows.

19. Among the patents that Bedgear has been awarded is U.S. Patent No. 8,646,134 ("the '134 Patent"), entitled "Pillow with Gusset of Open Cell Construction." The '134 Patent was filed on June 22, 2012 and issued on February 11, 2014.

20. Bedgear is the owner by assignment of the '134 Patent, with ownership of all substantial rights in the '134 Patent, including the right to exclude others and to sue and recover damages for the past and future infringement thereof. A true and correct copy of the '134 Patent is attached hereto as Exhibit A.

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