

JUDGE CAPRONI

15 CV 2118

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YEOSHUA SORIAS and ZILICON
ACCESSORIES, LLC,

Plaintiff,

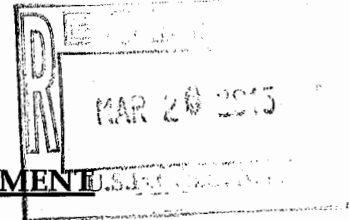
v.

INDIEGOGO, INC.,

Defendant.

Case No. _____

JURY TRIAL DEMANDED



COMPLAINT FOR PATENT INFRINGEMENT

Yeoshua Sorias ("Sorias") and Zilicon Accessories, LLC ("Zilicon") (collectively, the "Plaintiffs"), by and through their undersigned counsel, Sam P. Israel, P.C., hereby state for their complaint against defendant Indiegogo, Inc. ("Indiegogo" or "Defendant") as follows:

NATURE OF THE CASE

1. The Plaintiffs own and have the rights, title, and interest in and to the *Detachably Integrated Battery Charger For Mobile Cell Phones And Like Devices*, an invention registered with the United States Patent and Trademark Office as U.S. Patent No. 8,712,486 (the "486 Patent"). See Exhibit A hereto.

2. Upon information and belief, Indiegogo maintains an international crowdfunding website, which provides a platform for individuals and start-up ventures to raise investment capital for a project in exchange for a percentage of the proceeds received by means of this financing. One of these start-up ventures is Prong, LLC ("Prong"), which designs and manufactures electronic device accessories. On or about February 25, 2015, Indiegogo and Prong launched a campaign to make, market, offer to

sell and sell a cell phone charger (the “**Prong Charger**”) that is the same as the invention described in the ‘486 Patent.

3. Indiegogo has infringed and continues to infringe, literally and/or under the doctrine of equivalents, one or more claims of the ‘486 Patent under 35 U.S.C. § 271 by making, marketing, offering to sell and selling the Prong Charger, which infringes the patent-in-suit, as described more particularly below.

THE PARTIES

4. Plaintiff Sorias is a resident of New York State, Kings County.

5. Plaintiff Zilicon is a New York limited liability company, in which Sorias is a principal and officer.

6. Upon information and belief, Indiegogo is a corporation organized and existing under the laws of Delaware, with its principal place of business in San Francisco, CA 94103-2921. Indiegogo is registered to do business in New York and maintains a business address at 54 Thompson Street, 4th Floor, New York, New York 10012.

JURISDICTION AND VENUE

7. This Court has personal jurisdiction over the Defendants by reason of their transaction of business in this District, and their commission of acts of infringement within this District. According to information posted on www.Indiegogo.com, Indiegogo regularly solicits and conducts sales activities within New York State.

8. Subject matter jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §1331 and §1338(a). Venue is proper in this Court, pursuant to 28 U.S.C. §1391 and §1400.

FACTS

THE ‘486 PATENT AND PRONG’S INFRINGEMENT THEREOF

9. Sorias is an inventor and patent owner of various electronic devices and accessories. He is the founder and chief executive officer of Zilicon—a company that engages in designing and manufacturing innovative wireless and electronic devices.

Sorias invents, manufactures, and sells his creations, often in conjunction with Zilicon, which has an exclusive license to manufacture and distribute Sorias' creations.

10. Sorias is a named inventor and owns all rights, title and interest in and to the '486 Patent, whose underlying invention is primarily directed to a mobile phone charger that can be kept attached to the backside of the phone, with AC prongs folding in opposite directions flatly onto the back of the charger, such that the phone with its charger can easily fit in one's pocket.

11. The Plaintiffs have a pending patent infringement lawsuit against Prong and other defendants stemming from their violations of the Plaintiffs' rights under the '486 Patent pursuant to the U.S. Patent Act, 35 U.S.C. §§ 1 *et seq.* See *Sorias. v. National Cellular USA, Inc., et al.* Civ. No.: 1:14-cv-02897-WFK-SMG (E.D.N.Y).

12. In *Sorias v. National Cellular USA, Inc.*, the Plaintiffs have alleged, *inter alia*, that Prong is infringing the Plaintiffs' rights under the '486 Patent by making, marketing, offering for sale, and distributing the Prong Charger, which is based on the '486 Patent. Among other things, the Complaint in that action alleges that the Prong Charger includes all of the limitations of at least one claim of the '486 Patent.

13. Throughout, Prong has been fully aware of the prosecution of the '486 Patent and its eventual issuance. Prong's principal, Jesse Pliner, has approached Sorias on at least one occasion offering to enter into a licensing agreement in order to enable Prong to lawfully make and sell the Prong Charger. But Pliner and Sorias could not reach a licensing agreement, and the Plaintiffs never granted Prong any rights in connection with the '486 Patent (and, accordingly, the Prong Charger). Nonetheless, Prong knowingly and willfully continued said infringing acts without a license or any justification at law or in equity.

14. Prong's website, www.prong.com, promotes the Prong charger as "the only case[] with integrated charging prongs" and the "first of its kind in the world."

15. Upon information and belief, Indiegogo has made its crowdfunding platform available to Prong to pool money from investors and purported to: "highlight activities within [Prong's] network"; "Provid[e] a Partner Page" to "Build[] brand

recognition and influence through strategic brand placement on sponsored campaign pages”; as well as “Offer[] dedicated partner support, educational tools, and a partner launch at partnersupport@indiegogo.com.”

INDIEGOGO’S MARKETING AND SALE OF THE PRONG CHARGER

16. Indiegogo has extensively marketed the Prong Charger on its website, including by publicizing the following comparative chart for Prong Charger and other chargers:

	PRONG PWR CASE	PRONG POCKETPLUG	MOPHIE JUICE PACK	INDUCTIVE "WIRELESS" CHARGING	RESERVE BATTERIES	STANDARD CHARGER
No Cords Needed	✓	✓	✗	✗	✗	✗
Integrated Wall Charger	✓	✓	✗	✓	✗	✓
Backup Battery	✓	✗	✓	✗	✓	✗
Protective	✓	✓	✓	✓	✗	✗
Pocketable	✓	✓	✓	✗	✗	✗

17. Indiegogo further publicizes the following promises regarding the Prong Charger:

CUTTING THE CORD

PWR Case with a detachable backup battery and built-in plugs. Charge anywhere. No cords needed. **The first all-in-one charging solution that you can fit in your pocket**
It's a protective case with a detachable backup battery that has built-in plugs. Your phone can remain with you, in the inner protective case, while the backup battery is recharged.

WHY PRONG IS BETTER

There are two main problems with current charging solutions on the market today: (1) they require that you be tethered to the power source with a cord when you recharge; and (2) unless you carry a wall charger and cord everywhere, you can find yourself in situations where your phone is dead and you have no way to charge up until you get home. The PWR Case solves both of these problems.

PWR CASE FEATURES



18. Upon information and belief, Prong and Indiegogo raised more than enough funds needed to manufacture and distribute the infringing Prong Chargers within the United States, meaning that Indiegogo has and continues to profit from

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