

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CHERVON (HK) LIMITED,)	
CHERVON NORTH AMERICA INC.,)	
)	
<i>Plaintiffs,</i>)	C.A. No.: 19-1293-LPS
)	
v.)	
)	Jury Trial Demanded
ONE WORLD TECHNOLOGIES, INC.,)	
TECHTRONIC INDUSTRIES CO. LTD,)	
HOMELITE CONSUMER PRODUCTS,)	
INC.)	
)	
<i>Defendants.</i>)	

SECOND AMENDED COMPLAINT

Plaintiffs Chervon (HK) Limited and Chervon North America Inc. (collectively “Plaintiffs” or “Chervon”), by their undersigned counsel, and for their Complaint against Defendants One World Technologies, Inc., Techtronic Industries Co. Ltd., and Homelite Consumer Products, Inc. (collectively “Defendants”) hereby allege as follows:

SUMMARY OF NATURE OF ACTION

1. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.* Plaintiffs assert infringement of nine patents relating to technology embodied by their EGO brand of lawn mowers, including but not limited to the EGO Power+ Mower Model No. LM2100SP.

PARTIES

2. Plaintiff Chervon (HK) Limited (“Chervon HK”) is a Hong Kong company having a place of business at Room 803B, 8/F Allied Kajima Building, 138 Gloucester Road, Wan Chai, Hong Kong.

3. Plaintiff Chervon North America Inc. (“Chervon NA”) is a corporation organized under the laws of the State of Delaware with its primary place of business at 1203 East Warrenville Road, Naperville, Illinois 60563.

4. On information and belief, Defendant One World Technologies, Inc. (“One World”) is a corporation organized under the laws of the State of Delaware with its principal place of business at 100 Innovation Way, Anderson, South Carolina 29621.

5. On information and belief, Defendant Techtronic Industries Co. Ltd. (“TTI”) is a Hong Kong corporation with its principal place of business located at 28/F and & 29/F, Tower 2, Kowloon Commerce Centre, 51 Kwai Cheong Road, Kwai Chung, Hong Kong.

6. On information and belief, Defendant Homelite Consumer Products, Inc. (“Homelite”) is a corporation organized under the laws of the State of Delaware with its principal place of business at 100 Innovation Way, Anderson, South Carolina 29621.

7. Defendants and/or their subsidiaries and affiliates make, sell, offer for sale in the United States, and/or import into the United States, lawn mowers and other power tools under the name Ryobi.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Defendants because Defendants engage in business within this District, Defendants have committed acts of infringement in violation of 35 U.S.C. § 271, and Defendants have placed infringing products into the stream of commerce, through an established distribution channel, with the knowledge and/or understanding that such products are shipped into, sold, and/or used in this District. These acts have caused injury to Plaintiffs within this District and continue to cause injury to Plaintiffs within this District. Defendants derive substantial revenue from the sale of infringing products distributed within this

District. Defendants expect or should reasonably expect their actions to have consequences within this District and Defendants derive substantial revenue from interstate commerce.

10. As to One World, venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, One World resides in this district through its incorporation in this District and One World has committed acts of infringement in this District.

11. As to TTI, venue is proper in this district under 28 U.S.C. § 1391 because TTI is a foreign corporation and thus may be sued in any judicial district.

12. As to Homelite, venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b) because, among other reasons, Homelite resides in this district through its incorporation in this District and Homelite has committed acts of infringement in this District.

BACKGROUND

13. In 1982, the U.S. Consumer Product Safety Commission (“CPSC”) enacted a federal safety standard for lawn mowers, 16 C.F.R. § 1205. The CPSC enacted the standard in an effort to reduce injuries to people coming in contact with the moving blades of lawn mowers. *See, e.g.*, <https://www.cpsc.gov/Newsroom/News-Releases/1982/CPSC-Turns-Down-Petition-To-Postpone-Effective-Date-Of-Power-Lawn-Mower-Standard>.

14. All walk-behind power lawn mowers now must meet mandatory safety requirements designed to reduce injuries resulting from a person contacting the moving blade of a lawn mower. New lawn mowers must have a certification label with the inscription, “Meets CPSC blade safety requirements.” 16 C.F.R. § 1205.35.

15. In addition to the standard, the CPSC continued its efforts to reduce blade contact injuries through recalls. For example, in 1995, CPSC and Ryobi Outdoor Products announced a voluntary recall of 20,000 battery-powered and corded lawn mowers after discovering their

mowers' starter button may stick in the 'on' position, and, as a result, users could be injured by the moving mower blade. Release #95-173, September 25, 1995, <https://www.cpsc.gov/Recalls/1995/CPSC-And-Ryobi-Announce-Lawn-Mower-Recall>.

16. Despite the CPSC standard and its other efforts to reduce injuries, tens of thousands of people were treated in hospital emergency rooms annually for walk-behind power mower injuries from 2013-2015. A need existed for lawn mowers with additional safety features and mechanisms to attempt to reduce injuries to users.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 9,060,463

17. Plaintiffs repeat and re-allege each and every allegation of the foregoing paragraphs as though fully set forth herein.

18. Plaintiff Chervon HK is the owner of all rights and interests in U.S. Patent No. 9,060,463, entitled "Lawnmower with Operation Protection and Safety Switch Mechanism Thereof" ("the '463 patent"), which was duly and lawfully issued by the United States Patent and Trademark Office on June 23, 2015. A true and correct copy of the '463 patent is attached as **Exhibit A** and made a part hereof.

19. Plaintiff Chervon NA is an exclusive licensee of the '463 patent with a right to enforce the patent.

20. The '463 patent lists Toshinari Yamaoka, Fangjie Nie, Haishen Xu, and Xiandian Shao as inventors.

21. Plaintiffs have complied with the statutory marking requirements of 35 U.S.C. § 287 and have marked their commercial embodiments of the '463 patent since 2016.

22. Defendants have at no time been licensed under the '463 patent.

23. Defendants have infringed and continue to infringe one or more claims of the '463 patent, literally and/or under the doctrine of equivalents, by their manufacture, use, sale, importation, and/or offer for sale of certain lawn mowers and other power tools that embody one or more claims of the '463 patent, including but not limited to the following lawn mower products: RY40108; RY40109; RY40LM03; RY40LM10-Y.

24. By way of example, Claim 1 of the '463 patent recites as follows:

A slide-triggered safety switch mechanism, comprising:

an inner pipe and a pipe sleeve capable of movement relative to each other wherein the inner pipe is equipped with a safety shift structure; and
a safety switch assembly mounted inside the pipe sleeve wherein the safety switch assembly comprises a safety switch and a trigger assembly configured to trigger the safety switch when the safety shift structure of the inner pipe is moved relative to the pipe sleeve from a safety location and to reset the safety switch when the safety shift structure returns to the safety location.

25. Defendants' RY40108; RY40109; RY40LM03; and RY40LM10-Y lawn mower products include each and every limitation of one or more claims of the '463 patent, including at least Claim 1.

26. By way of example, Defendants' RY40108 and RY40109 lawn mowers meet each and every limitation of Claim 1 of the '463 patent as shown below:

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