IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CASE NO. 19-cv-02950

THE ERGO BABY CARRIER, INC., **Plaintiff,** **v.** **LILLEBABY, LLC,** **Defendant.**	**COMPLAINT FOR PATENT INFRINGEMENT** **JURY TRIAL DEMANDED**

Plaintiff The ERGO Baby Carrier, Inc., files this Complaint for Patent Infringement against LILLEbaby, LLC, and alleges on its own knowledge, and on information and belief, as follows:

THE PARTIES

1. Plaintiff The ERGO Baby Carrier, Inc. ("ERGO") is a corporation duly organized and existing under the laws of Hawaii, with a principal place of business at 617 W. 7th Street, Suite 1000, Los Angeles, California 90017.

2. Upon information and belief, LILLEbaby LLC, ("LILLEbaby") is a limited liability corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 700 12th Street, Golden, Colorado 80401.

JURISDICTION AND VENUE

3. This Complaint for patent infringement arises under the patent laws of the United States, Title 35 U.S.C. §§ 1 *et* seq.

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

5. This court has personal jurisdiction over Defendant LILLEbaby because Defendant resides in the State of Colorado and maintains continuous, systematic, and substantial contacts within the State of Colorado including: (i) a portion of the infringing activity alleged herein occurs in Colorado; and (ii) Defendant is regularly doing or soliciting business in Colorado, engaging in other persistent courses of conduct in Colorado, and/or deriving substantial revenue from goods and services provided to individuals in Colorado. By way of non-limiting example, Defendant LILLEbaby sells its products, including the infringing child carriers identified below, throughout the United States including Colorado through its online retail portal at www.lillebaby.com. Moreover, Defendant LILLEbaby directs consumers to brick-and-mortar retail stores located in Colorado that warehouse and sell LILLEbaby products including the infringing child carriers—and where in turn—consumers can make in-store purchases of those carriers. *See* www.lillebaby.com/pages/find-a-store-near-you. Defendant LILLEbaby has also recently availed itself of jurisdiction in this Court by, *inter alia*, filing multiple law suits in this court. *See*, *e.g.*, *LILLEbaby, LLC v. YOU + ME*, Case No. 1:19-cv-00679 (D. Colo. Mar. 6, 2019); *LILLEbaby, LLC v. Mountain Buggy USA*, Case No. 1:19-cv-00662 (D. Colo. Mar. 6, 2019); *LILLEbaby, LLC v. Wuxi Kangarouse Trading Co. Ltd., et al.*, Case No. 1:19-cv-00677 (D. Colo. Mar. 6, 2019).

6. Venue is appropriate in this District pursuant to 28 U.S.C. §§ 1391 and 28 U.S.C. § 1400(b). Upon information and belief, Defendant LILLEbaby has transacted business in this District and has committed acts of patent infringement in this District. Moreover, Defendant has a regular and established place of business in Colorado and, therefore, within this District.

THE PARTIES

ERGO

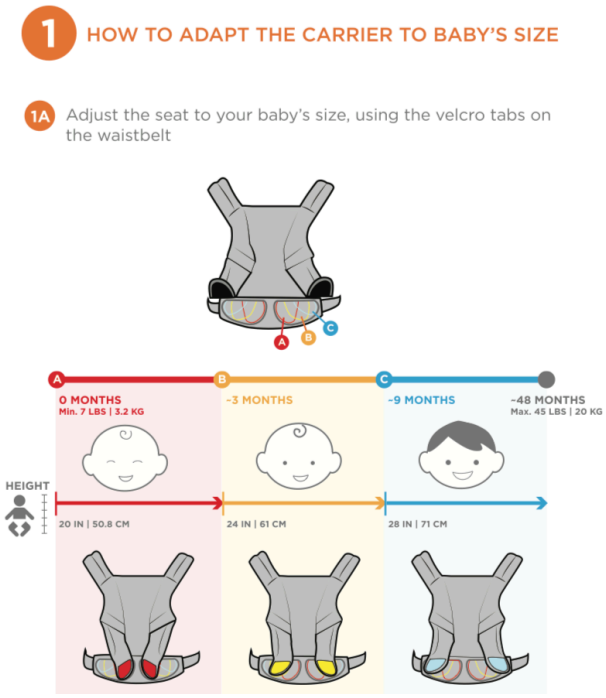
7. Founded in 2003, ERGO manufactures babywearing products and accessories designed to support a natural and ergonomic position for babies.

8. ERGO babywearing products are sold in more than 700 retailers in the United States and in over 50 countries internationally, have received an assortment of industry awards and accolades, and are covered by a portfolio of no less than fifteen (15) U.S. patents.

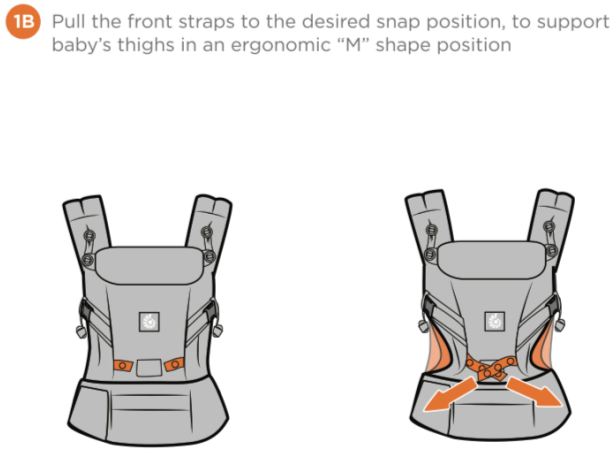
9. In 2016, ERGO announced the release of its ADAPT™ Baby Carrier, which had an innovative seat that gradually adjusts to a growing baby.

10. ERGO's ADAPT™ carrier features included an ergonomic bucket seat that gradually adjusts to ensure baby is seated in a spread-squat, natural "M shape" position from newborn to toddler.

11. As depicted in the ADAPT™ instruction manual, the base width of the seat can be adjusted to the size of the baby using Velcro tabs on the waist belt:



12. The ERGO ADAPT™ further contains thigh width adjusters:



13. ERGO filed for a patent to protect this innovative design on October 30, 2015, and the United States Patent Office issued U.S. Patent No. 10,426,275 on October 1, 2019.

LILLEbaby

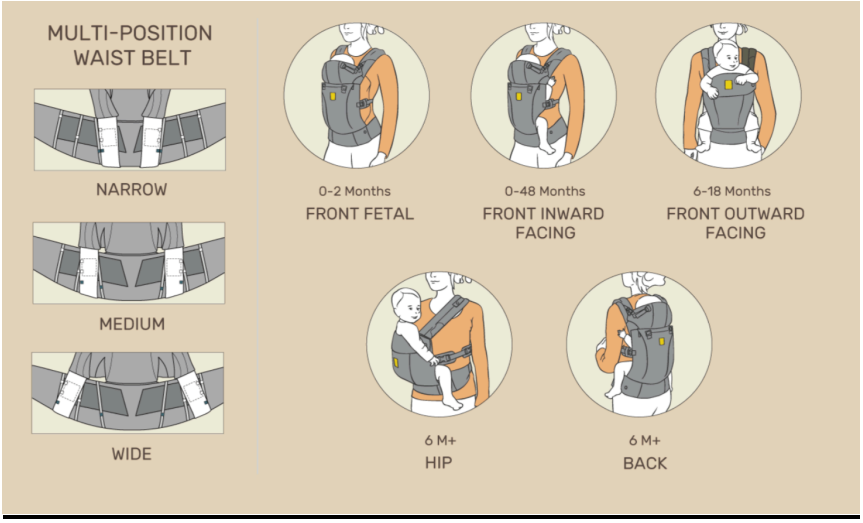
14. The Riverside Company entered into a partnership with LILLEbaby in 2017 and provided related financing for LILLEbaby at the same time.

15. LILLEbaby's partnership with The Riverside Company was further facilitated by Tree Line Capital Partners, which provided debt financing and an equity co-investment.

16. With investment from The Riverside Company and Tree Line Capital Partners, LILLEbaby's founder stepped down from managing the company, and a new chief executive officer was named in March 2018 to "lead[ ] the LILLEbaby team as it develops and executes on its growth strategy, including new product development, supply chain optimization and distribution expansion." https://www.prnewswire.com/news-releases/lillebaby-makes-key-executive-appointments-300614197.html.

17. In September 2019, LILLEbaby unveiled the result of its "new product development," the Serenity carrier.

18. LILLEbaby's website states that the Serenity carrier offers "three easy-to-adjust seat positions for baby (narrow, medium and wide seat)." From the pictures depicting the carrier it is apparent LILLEbaby copied ERGO's innovative design:



THE PATENT-IN-SUIT

19. This cause of action asserts infringement of U.S. Patent No. 10,426,275 ("the '275 Patent" or "the Asserted Patent") entitled "Adjustable Child Carrier" issued October 1, 2019, a copy of which is attached hereto as **Exhibit A**.

20. ERGO is the owner of all rights, title, and interest to the '275 Patent.

21. ERGO has the sole and exclusive right to prosecute this Action, to enforce the '275 Patent against infringers, including Defendant, and to collect damages on the '275 Patent for all relevant times.

22. The '275 Patent describes an adjustable child carrier that includes an adjustable bucket seat that can be adjusted to accommodate children of a wide range of sizes. Multiple adjustments work alone or in cooperation to adjust the width and depth of the bucket seat area to provide support for children of various sizes in an ERGOnomic position appropriate for the child's size.

23. ERGO's ADAPT™ carrier embodies at least one or more claims of the '275 Patent.

DEFENDANT'S INFRINGING CONDUCT

24. On information and belief, Defendant LILLEbaby, LLC makes, uses, sells, offers for sale, imports, sells for importation, and offers for sale after importation in the United States various infringing child carriers.

25. Specifically, LILLEbaby makes, uses, offers to sell, and sells in the United States, and imports into the United States, the LILLEbaby Serenity line of baby carriers—including at least the Serenity Airflow and Serenity All Seasons baby carriers—that infringe at least one claim of the '275 Patent (the "Accused Products").

26. By way of example, LILLEbaby sells the Accused Products throughout the United States through various channels including its online store at www.lillebaby.com. Moreover, Defendant further directs consumers to brick-and-mortar retail stores that warehouse and sell LILLEbaby products including the Accused Products—and, where, in turn—consumers can make in-store purchases of those carriers. *See*, *e.g.*, www.lillebaby.com/pages/find-a-store-near-you.

27. LILLEbaby advertises the Accused Products under its own LILLEbaby brand name.

INFRINGEMENT OF THE '275 PATENT

28. ERGO restates and incorporates by reference the paragraphs above as if fully stated herein.

29. LILLEbaby has directly infringed at least claim 1 of the '275 Patent as reflected in **Exhibit B**, in violation of 35 U.S.C. § 271(a), literally and under the doctrine of equivalents, by, among other things, making, using, offering for sale, selling in the United States, and/or importing

into the United States, the Serenity products, and will continue to do so unless such infringing activities are enjoined by this Court.

30. LILLEbaby also has knowingly, intentionally, and actively aided, abetted, and/or induced others to infringe the ’275 Patent through its customers, users, business partners, and retail partners in this judicial District and throughout the United States.

31. LILLEbaby was on notice of the ADAPT product since at least early 2019, and was aware of the ’275 Patent since, at the latest, the filing and service of this Complaint. LILLEbaby knew and intended that its continued actions actively induced, and contributed to, the infringement of the ’275 Patent.

32. ERGO has suffered, and continues to suffer, damages and irreparable harm as a result of LILLEbaby’s past and ongoing infringement.

33. Unless LILLEbaby’s infringement is enjoined, ERGO will continue to be damaged and irreparably harmed.

34. LILLEbaby’s ongoing infringement of the ’275 Patent has been willful and deliberate, making this an exceptional case and entitling ERGO to recover enhanced trebled damages and attorneys’ fees pursuant to 35 U.S.C. §§ 284 and 285.

DEMAND FOR JURY TRIAL

35. Pursuant to FED.R.CIV.P. 38, ERGO demands a trial by jury of all issues triable of right and raised by the pleadings in this Action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff The ERGO Baby Carrier, Inc. requests that this Court enter the following orders and judgments:

a. Awarding damages no less than a reasonable royalty together with interests and costs;

b. Enjoining Defendant and its parents, subsidiaries, divisions, officers, directors, agents, dealers, representatives, servants, employees, successors, assigns, and all parties acting in concert or participation with them, from infringing the Asserted Patent;

c. Finding Defendant's infringement of the Asserted Patent to be willful under 35 U.S.C. § 285; and

d. Awarding ERGO such other and further relief as the Court deems just and proper.

Dated: October 16, 2019.

Respectfully submitted,
Erise IP, P.A.

/s/ Paul R. Hart

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