

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PUSHPEEL LLC,

Plaintiff,

v.

SCHEDULE A DEFENDANTS,

Defendants.

Case No. 25-cv-1957

(Judge Hornak)

DECLARATION OF SAYER MURPHY

I, SAYER MURPHY, declare and state as follows:

1. This declaration is based upon my personal knowledge of the facts stated herein or on the business records that were made at the time or in the regular course of business. If called as a witness, I could and would testify to the statements made herein.

2. I am the Manager of Plaintiff Pushpeel LLC (“Plaintiff” or “Pushpeel”) in this lawsuit. Pushpeel LLC is a limited liability company formed and existing under the laws of the State of New York with a principal office address in Albany, New York.

3. Pushpeel is the owner and named applicant of U.S. Patent No. 12,478,892 (“the ‘892 patent”), which issued on November 25, 2025, and is entitled “Sensorial Activity Toys.” I am the sole inventor of the ‘892 patent. A true and correct copy of the ‘892 patent is attached to the Complaint as **Exhibit 1**.

4. Defendants offer to sell and sell products that infringe the ‘892 patent (“the Infringing Products”) to consumers in Pennsylvania, including within this Judicially District, through Defendants’ pseudo-anonymous online commerce storefronts (“Online Storefronts”). I’ve purchased, or directed the purchase, of, Defendants’ unauthorized products that infringe the ‘892 patent for shipment to Pennsylvania. All Infringing Products (Type 1, 2, 3, and 4 products) are

structurally identical with respect to the '892 patent. Any differences between the Defendants' Infringing Products are of a superficial aesthetic nature (different colors, location of channels, or slight difference in shape). Attached to the Complaint as **Exhibit 4** are claim charts comparing each type of Infringing Product to Claim 1 of the '892 patent. Defendants also use identical or nearly identical product imagery that appears to come from one source. In short, Defendants appear to be co-conspirators in a scheme to profit by infringing the '892 patent.

5. Pushpeel controls the quality of all materials used in the products embodying Plaintiff's patented invention.

6. Pushpeel has expended substantial time, money, and other resources in developing, advertising, licensing, and otherwise promoting the Plaintiff's patented invention. As a result, the patented invention is widely recognized and exclusively associated by consumers, the public, and the trade with Pushpeel.

7. The success and acclaim of the Plaintiff's patented invention has resulted in significant infringement of the '892 patent. Consequently, Pushpeel has implemented an anti-pirating program to investigate suspicious websites and online marketplace listings identified in proactive internet sweeps. Various marketplace listings have been identified on multiple platforms, including the internet stores identified in Schedule A attached to the Complaint ("Defendant Internet Stores"), which were offering for sale, selling, and/or importing unauthorized copies of the Plaintiff's patented invention to consumers in this judicial district and throughout the United States.

8. The investigations show that Defendants are using the Defendant Internet Stores to sell products that infringe the '892 patent from foreign countries such as China to consumers in the United States. I, or someone working on my behalf, analyzed the Defendant Internet Stores

and determined that products infringing the '892 patent were being offered for sale throughout the United States, including being offered for sale in Pennsylvania. The Defendants and their websites do not have the right or authority to use the Plaintiff's patent invention for any reason. True and correct copies of screenshot printouts showing the active Defendant Internet Stores reviewed are attached to the Declaration Dee Odell as **Exhibit 1**.

9. Monetary damages alone cannot adequately compensate Pushpel for the ongoing infringement because monetary damages fail to address the loss of control of and damage to Pushpeel's reputation and goodwill and the loss of control over the nature and quality of products made using the Plaintiff's patent invention. Furthermore, monetary damages are difficult, if not impossible, to completely ascertain due to the inability to fully quantify the monetary damage caused to Pushpeel's reputation and goodwill by the Defendants' acts of infringement.

10. Pushpeel is further irreparably damaged due to a loss of exclusivity. The patent rights in the Plaintiff's patent invention are meant to be exclusive rights.

11. The marketing and distribution of the Plaintiff's patented invention are aimed at growing and sustaining sales. When infringers use the Plaintiff's patented invention without authorization, the exclusivity associated with the Plaintiff's patented invention is damaged and eroded, resulting in a loss of unquantifiable future sales.

12. Uncontrolled profiteering and pirating of the Plaintiff's patented invention creates the impression that the patent rights associated with the Plaintiff's patented invention may be infringed with impunity. The Plaintiff's patented invention is distinctive and signifies to consumers that products are authorized by Pushpeel and are manufactured to Pushpeel's high-quality standards. The devaluing of the intellectual property associated with the Plaintiff's patented

invention cannot be compensated for financially since it erodes Pushpeel's ability to monetize the Plaintiff's patented invention.

13. Each individual Defendant's actions, alone, causes Pushpeel irreparable harm. However, the sheer number of infringing e-commerce store operators acts as a force multiplier of those individual harms and creates a massive single reputational harm to Pushpeel. Pushpeel faces significant economic and logistical challenges in enforcing the '892 patent against each online store individually. Single defendant enforcement in the face of the overwhelming number of infringement points of sale made possible by the unregulated and anonymous nature of the Internet is wholly ineffective and does not remedy the actual harm to Pushpeel caused by the crushing weight of all of Defendants' simultaneous infringement.

14. Pushpeel readily sees and suffers from the combined harm caused by the Defendants' concurrent infringement activities. Successfully addressing the common harm caused by the Defendants necessitates Pushpeel grouping concurrently acting Defendants together to obtain any reasonable relief and prevent the drowning out of Pushpeel's legitimate online product information and sales.

15. The combined force of Defendants' unlawful actions is contributing to the creation and maintenance of an illegal marketplace operating in parallel to the legitimate marketplace for the Plaintiff's patented invention. Defendants are causing individual, concurrent, and indivisible harm to Pushpeel and the consuming public by (i) depriving Pushpeel of its right to fairly compete for space online and within search engine results and reducing the visibility of the Plaintiff's patented invention on the Internet, (ii) causing an overall degradation of the value of the goodwill associated with the Plaintiff's patented invention by viewing inferior products in either the pre- or

post-sale setting, and/or (iii) increasing Pushpeel's overall cost to market its goods and educate consumers about Pushpeel's brand via the Internet.

16. The market for Plaintiff's patented invention includes Pennsylvania, where Pushpeel offers for sale, sells, and ships Plaintiff's patented invention. By offering for sale and selling products that infringe the '892 patent in Pennsylvania, Defendants are negatively impacting Pushpeel's ability to sell Plaintiff's patented invention, causing Pushpeel harm in Pennsylvania.

17. Pushpeel will suffer immediate and irreparable injury, loss, or damage if an *ex parte* Temporary Restraining Order is not issued in accordance with Federal Rule of Civil Procedure 65(b)(1).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 6, 2026.

/s/ Sayer Murphy

Sayer Murphy