

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

BLACKBIRD TECH LLC d/b/a
BLACKBIRD TECHNOLOGIES,

Plaintiff,

v.

ERGOTRON, INC.

Defendant.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Blackbird Tech LLC d/b/a Blackbird Technologies (“Blackbird Technologies”) hereby alleges for its Complaint for Patent Infringement against Ergotron, Inc., (“Ergotron” or “Defendant”) on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

THE PARTIES

1. Plaintiff Blackbird Technologies is a Delaware limited liability company with its principal place of business located at One Boston Place, Suite 2600, Boston, Massachusetts 02108.
2. Upon information and belief, Ergotron is a company incorporated under the laws of the State of Minnesota, and has its principal place of business at 1181 Trapp Road, St. Paul, Minnesota 55121.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code §§ 100, *et seq.*

4. Subject-matter jurisdiction over Blackbird Technologies' claims is conferred upon this Court by 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1338(a) (patent jurisdiction).

5. This Court has personal jurisdiction over Defendant because Defendant is subject to general and specific jurisdiction in the state of Minnesota. Defendant is subject to personal jurisdiction because Defendant has transacted business within Minnesota and committed acts of patent infringement in Minnesota. Defendant has made certain minimum contacts with Minnesota such that the maintenance of this suit does not offend traditional notions of fair play and substantial justice. Defendant regularly conducts business in Minnesota, including by marketing, selling, and/or offering for sale accused medical carts through its website, <https://www.ergotron.com/en-us/products/mobile-carts>, which is accessible throughout the United States, including Minnesota. Defendant inserts the accused products into the stream of commerce, with the knowledge and intention that they be offered and sold to, and used by, Minnesota residents. Defendant also maintains its principal office at 1181 Trapp Road, St. Paul, Minnesota 55121. The exercise of personal jurisdiction comports with Defendant's right to due process because, as described below, Defendant has purposefully availed itself of the privilege of conducting activities within Minnesota such that it should reasonably anticipate being haled into court here. As alleged herein, acts by Defendant in this District have caused injury to Blackbird Technologies.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 (b) and (c) and § 1400(b) because Defendant resides in this District, transacts business within this District, has a regular and established place of business in this District, and offers for sale in this District products that infringe U.S. Patent No. 8,180,485.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,180,485

7. Blackbird Technologies reasserts and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

8. U.S. Patent No. 8,180,485 (the “’485 patent” or “patent-in-suit”) entitled, “Medication Dispensing Cart,” was duly and legally issued by the U.S. Patent and Trademark Office on May 15, 2012. Blackbird Technologies is the owner by assignment of all right, title, and interest in and to the ’485 patent, including all right to recover for any and all infringement thereof. The ’485 patent is valid and enforceable. A true and correct copy of the ’485 patent is attached as Exhibit A.

9. Upon information and belief, Ergotron indirectly infringes one or more claims of the ’485 patent, including at least claim 1, under 35 U.S.C. §271(b) and/or (c), by making, using, offering to sell, selling, and/or importing in this judicial district and/or elsewhere in the United States, mobile medication dispensing carts, including at least Ergotron’s StyleView line of medical carts with an “auto-locking drawer system” (“the Accused Ergotron Carts”).

10. Ergotron provides “[a]n apparatus comprising...a medication dispensing cart,” as claimed.

11. As shown below, the Accused Ergotron Carts are medication carts:



StyleView® Cart with LCD Pivot, SLA Powered, 3 Drawers (1x3)

Full-Featured Medical Cart

Stay productive and on the go with our certified power system. This innovative, truly ergonomic and easy-to-maneuver healthcare cart features sit-to-stand height adjustment, independent screen positioning and an adjustable back-tilt keyboard tray. Its auto-locking drawer system enables simple and efficient management of non-controlled medication with variable-length PIN access for users.

NOTE: Select your regional power requirements for the full part number.

PART NUMBER: SELECT *

SSP PRICE: \$5,994.00

<https://www.ergotron.com/en-us/products/product-details/sv44-1331>.

12. Claim 1 recites a “medication dispensing cart having a computer with a computer monitor and a computer controller.” Upon information and belief, Ergotron does not sell the Accused Ergotron Carts with “a computer with a computer monitor and computer controller.” Claim 1 is directly infringed by users when they install “a computer with a computer monitor and computer controller” into the Accused Ergotron Carts. As shown below, Ergotron indirectly infringes this limitation.

13. For example, Ergotron contributes to the infringement of this limitation by selling and offering to sell a component of the patented medication dispensing cart. Specifically, as is shown below in Paragraphs 21-33, Ergotron sells and offers to sell the Accused Ergotron Carts, which include all claimed components other than “a computer with a computer monitor and computer controller,” thereby constituting a material part of the invention.

14. Ergotron had knowledge of the '485 patent at least as early as July 2016. The prior owner and assignee of the '485 patent was MV Circuit Design Inc. (“MV Circuit”). MV Circuit was assigned the '485 patent by Omnicell, Inc. On July 25, 2016, the President of MV Circuit, Markos Paradissis, contacted via LinkedIn the then CEO of Ergotron, Pete Segar, to notify him of

MV Circuit's patents, including expressly identifying the '485 patent, and to determine whether Ergotron was interested in acquiring its patents. (Exhibit B). On July 26, 2016, Mr. Segar responded via LinkedIn stating that Ergotron did not "have any plans for advancing our medication drawer technology in the direction of the [MV Circuit] system." (*Id.*).

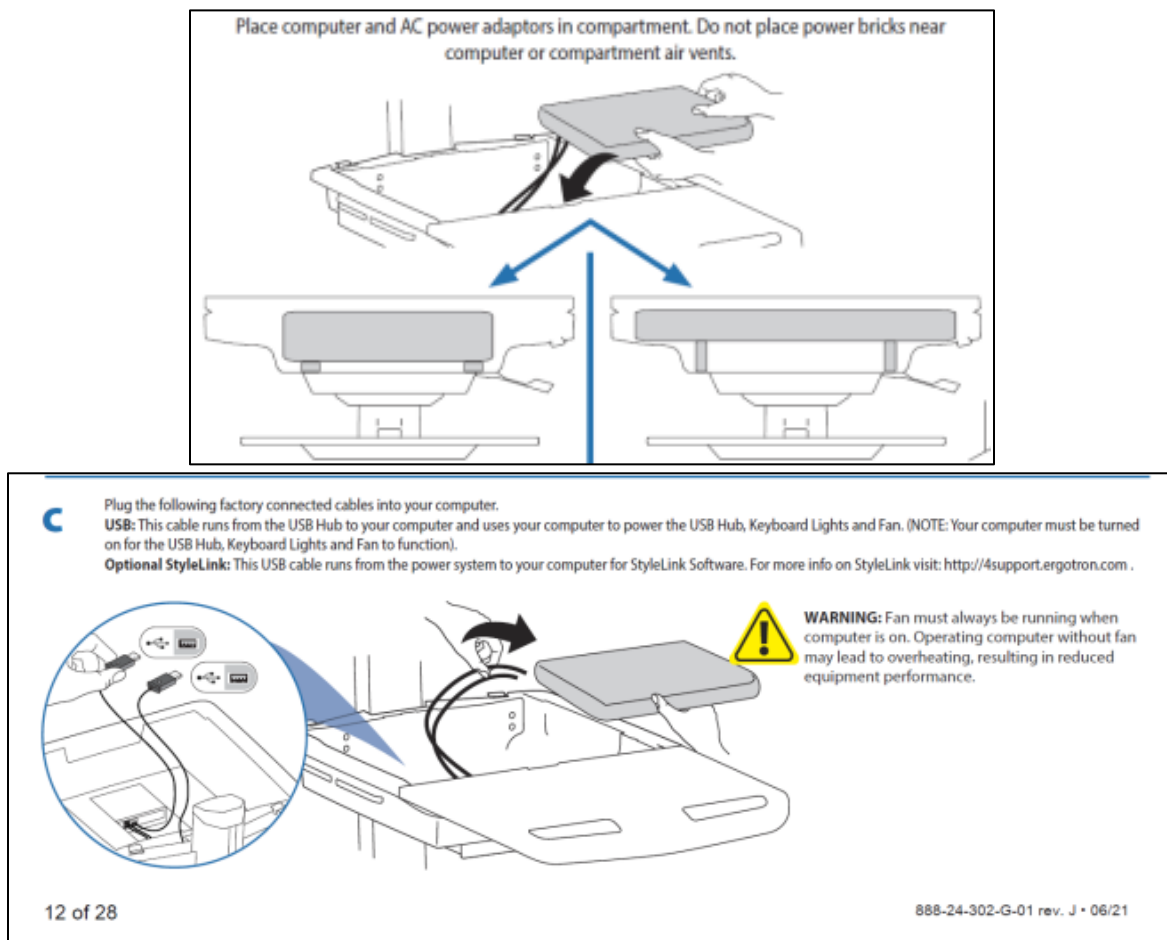
15. In addition, on December 10, 2021, Blackbird sent a notice letter to Ergotron detailing Ergotron's infringement. (Exhibit C). On December 17, 2021, counsel for Ergotron responded and requested that Blackbird provide a claim chart. (Exhibit D). On December 23, 2021, Blackbird provided Ergotron's counsel with a claim chart for the '485 patent. (Exhibit E). Thus, as early as July 2016, but no later than December 10, 2021, Ergotron had knowledge of the '485 patent and knowledge the Accused Ergotron Carts are especially made or especially adapted for use in an infringement of the '485 patent.

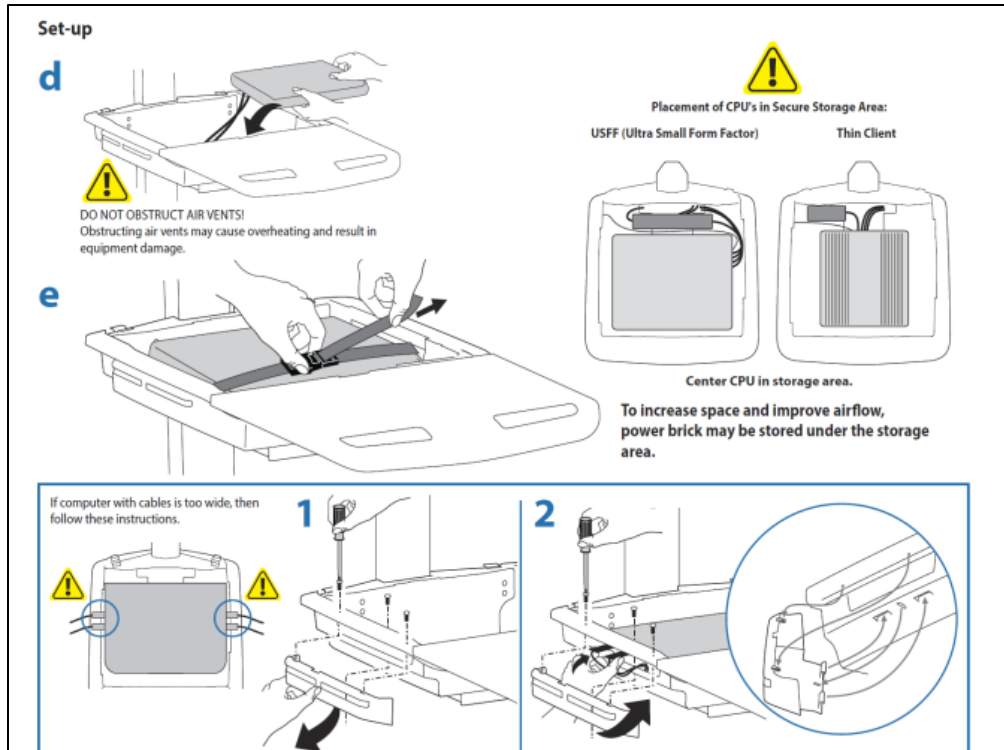
16. Upon information and belief, there are no substantial noninfringing uses for the Accused Ergotron Carts because "a computer with a computer monitor and computer controller" is required for the Accused Ergotron Carts to function as intended. For example, the product manual explains: "StyleView powered carts provide electrical AC power for mobile point of care computing equipment in a healthcare environment. The carts are not intended to power medical products or devices. Outlets are provided to power information technology equipment only such as computer equipment and computer peripherals." <https://media.ergotron.com/reserved/resources/888-24-302-g-orig.pdf>. Ergotron's website further touts the Accused Ergotron Carts as operating with numerous types of computers and monitors: "Open-architecture design accommodates multiple configurations: closed notebooks with monitor, CPU and monitor, thin clients, tablets, all-in-one computers and future hardware upgrades." <https://www.ergotron.com/en-us/products/product-details/sv44-1231>.

17. Ergotron also induces infringement of this limitation because Ergotron specifically directs users to use “a computer with a computer monitor and computer controller” with the Accused Ergotron Carts, thus infringing claim 1. As described above, at least as early as July 2016, but no later than December 10, 2021, Ergotron knew that its acts constitute infringement. (See Paragraphs 14-15).

18. Ergotron provides instructions, support, and technical assistance for the use of the Accused Ergotron Carts with “a computer with a computer monitor and computer controller.” For example, installation instructions provide instructions on connecting a computer (having a computer controller) to the carts, as well as connecting a computer monitor to the cart:

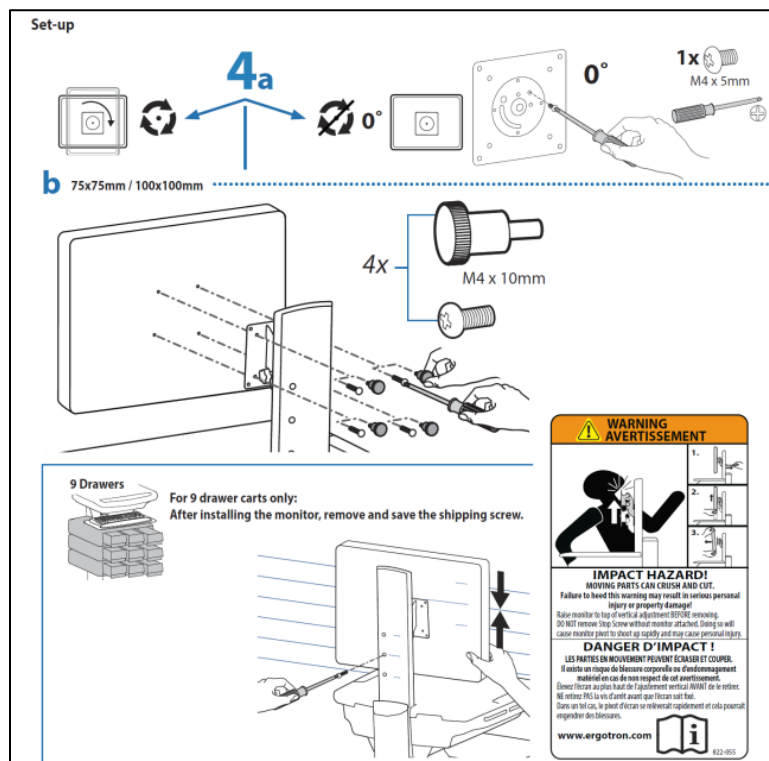
Computer (with controller):





<https://media.ergotron.com/reserved/resources/888-24-304-g-orig.pdf>.

Computer Monitor:



(Id.).

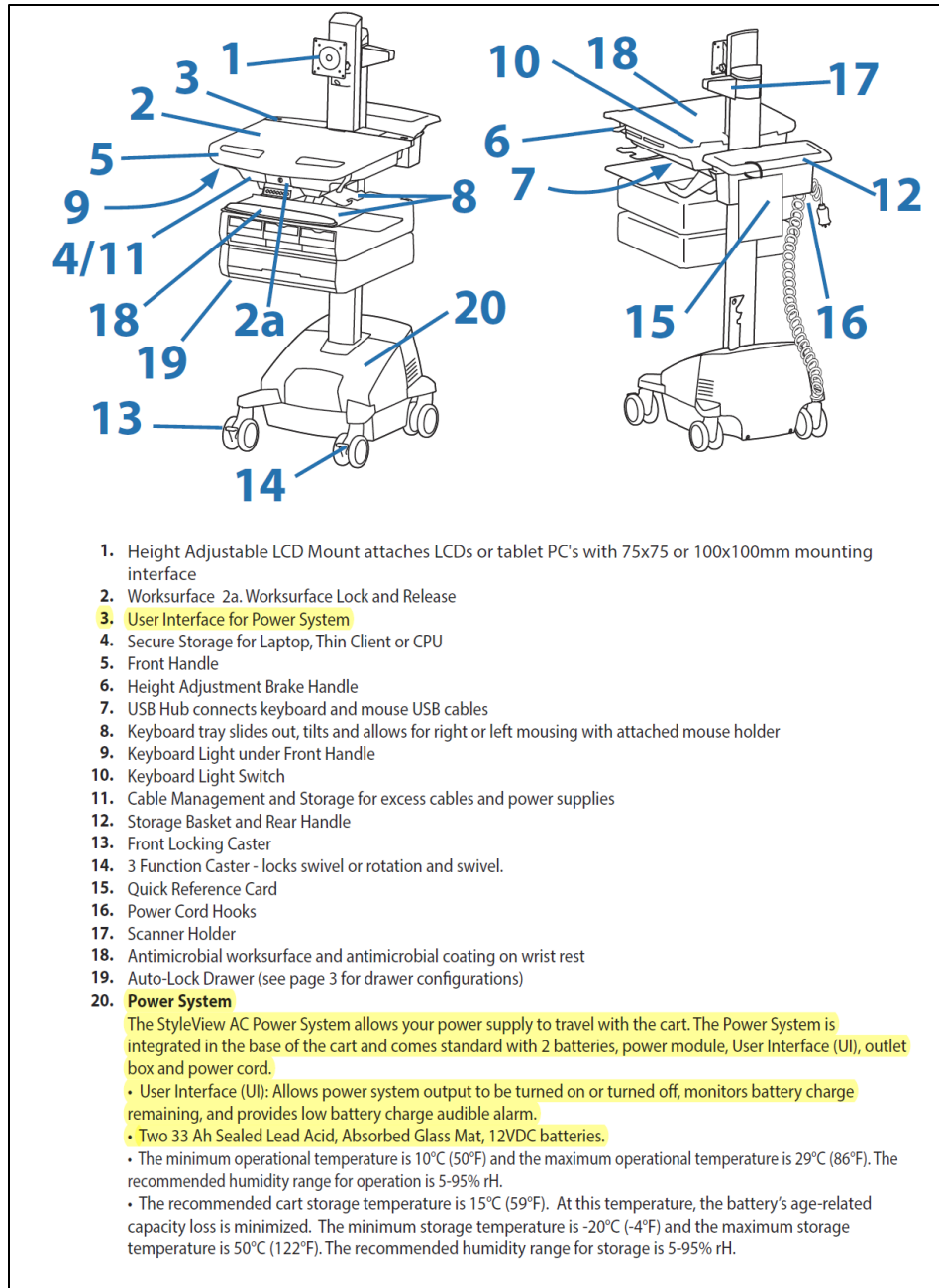
19. In addition, Ergotron markets its product with images of the cart having a computer with a computer monitor:



20. Accordingly, for the Accused Ergotron Carts to operate as a medication dispensing cart, as advertised for Ergotron, it must have “a computer with a computer monitor and computer controller.”

21. The Accused Ergotron Carts include “a power system with a battery and a power system controller,” as claimed.

22. Ergotron’s manual describes the “power system” for the Accused Ergotron Carts:



<https://media.ergotron.com/reserved/resources/888-24-304-g-orig.pdf>. Ergotron's marketing

materials further describe the power capabilities for the Accused Ergotron Carts:

PRODUCTS INCLUDE

Auto-locking drawer system (with various drawers as configured), LCD Pivot* or LCD Arm*, worksurface, CPU lock, secure CPU compartment, four-port USB hub, scanner holder bracket, mouse holder, wrist rest, back-tilt keyboard tray, left/right mouse tray, keyboard lights, rear handle, storage basket, cable storage, four casters (two locking), 10' (3 m) coiled cord, three AC outlets, power system user interface, StyleLink SKY software, plus:

LiFe-powered carts: 40 Ah Power System with one 40 Ah, 12V DC, Lithium Iron Phosphate (LiFe) battery.

SLA-powered carts: 66 Ah power system with two 33 Ah, 12V DC, Absorbed Glass Mat (AGM), valve-regulated batteries with supporting electronics

<https://media.ergotron.com/reserved/resources/sv44series-ea-orig.pdf>. The Accused Ergotron

Carts are also provided with StyleLink SKY software that can “monitor and manage” the battery:

Why SKY?

- Seamless and centralized management of medical carts from a web browser
- Avoid removing carts from clinical service
- Monitor and manage battery usage patterns
- Improve battery life expectancy
- Control access to drawers and keep a usage log
- Safe, secure and HIPAA compliant; runs remotely from a secure data center

<https://www.ergotron.com/en-us/support/ekinnex/stylelink-sky>.

23. The Accused Ergotron Carts include “a cassette drawer system with a cassette drawer manager, a cassette drawer controller and a cassette drawer,” as claimed.

24. As illustrated below, the Accused Ergotron Carts have a cassette drawer system that allows for up to 5 layers of cassette drawers to be used:



StyleView® Cart with LCD Pivot, SLA Powered, 3 Drawers (1x3)

Full-Featured Medical Cart

Stay productive and on the go with our certified power system. This innovative, truly ergonomic and easy-to-maneuver healthcare cart features sit-to-stand height adjustment, independent screen positioning and an adjustable back-tilt keyboard tray. Its auto-locking drawer system enables simple and efficient management of non-controlled medication with variable-length PIN access for users.

NOTE: Select your regional power requirements for the full part number.

PART NUMBER: SELECT *

SSP PRICE: \$5,994.00

<https://www.ergotron.com/en-us/products/product-details/sv44-1231>.

Product Features

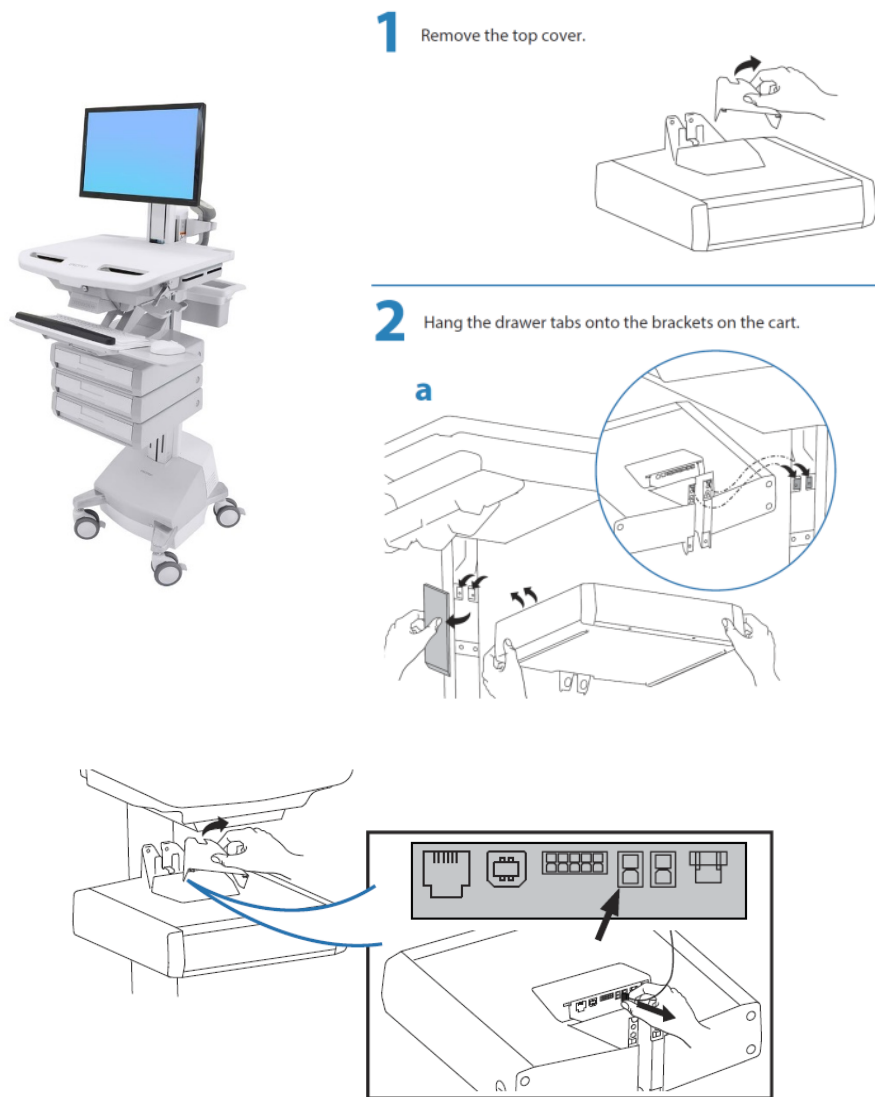
Benefits

- Dependable fifth-generation power system with easy to replace batteries
- For patient and caregiver safety the entire power system and the FULL cart are certified to UL/EN/IEC 60601-1. Complies with EMI limits of FCC Part 15 Class A
- Drawer system supports "Pharmacy mode," allowing all drawers to be unlocked simultaneously to facilitate efficient stocking of medication
- Extra rows of drawers may be added—up to a maximum of 5 rows
- Truly ergonomic design accommodates the largest range of nurses and other caregivers; designed for sitting or standing with single-motion fluid adjustment—helps promote caregiver wellness and productivity

Tech Specs

- StyleView's small footprint, with ultra-smooth gliding casters, travels easily across crowded carpet or hard surface floors and is perfect for space constrained areas
- Open-architecture design accommodates multiple configurations: closed notebooks with monitor, CPU and monitor, thin clients, tablets, all-in-one computers and future hardware upgrades
- Keyboard pans fully side-to-side for closer access while interacting with clients
- Passes Ergotron's 10,000-cycle motion test, which ensures years of trouble-free sit-to-stand height adjustment

(Id.). The cassette drawer system of the Accused Ergotron Carts have a cassette drawer manager with a cassette drawer controller:



<https://media.ergotron.com/reserved/resources/888-24-304-g-orig.pdf>. The Accused Ergotron Carts have an auto-locking drawer system that allows for use of PIN passwords to control access to the drawers:



SV44
LiFe-powered
LCD Arm cart
pre-configured
with 2 single
drawers



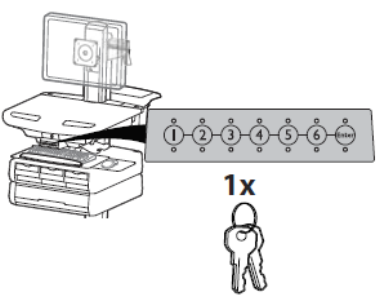
<https://media.ergotron.com/reserved/resources/sv44series-ea-orig.pdf>.


- 4 Auto-locking drawer system: Simple and efficient medication management at the point-of-care; security system stores variable-length PINs for up to 1,000 users with StyleLink SKY software

(Id.).

Auto-Lock Drawer

16





CAUTION: Open only one drawer at a time. Do Not push cart when drawers are open. Failure to follow these instructions may cause the cart to be unstable.

NOTE: Change Master Personal Identification Number (PIN) upon receipt of cart. A User PIN must be created to open drawers electronically.

Ensure that the main power system batteries are installed and functioning. The power does not need to be turned on at the power system user interface.

User PINs:

- Carts store up to 1,000 PINs.

Without StyleLink management:

- PINs entered on the cart and not managed by StyleLink may vary in length from 4-7 digits.
- Ergotron recommends the following for choosing PIN digit length (assumes less than 1 in 25 chance of guessing random User PIN):
- Max number of User PINs >50, 5+digit length recommended
- Max number of User PINs >300, 6+digit length recommended
- For maximum security use PIN length of 7

With StyleLink management:

- 5 digit PIN length required.

<https://media.ergotron.com/reserved/resources/888-24-302-g-orig.pdf>. The Accused Ergotron

Carts are also provided with StyleLink SKY software that can control the cassette drawers:

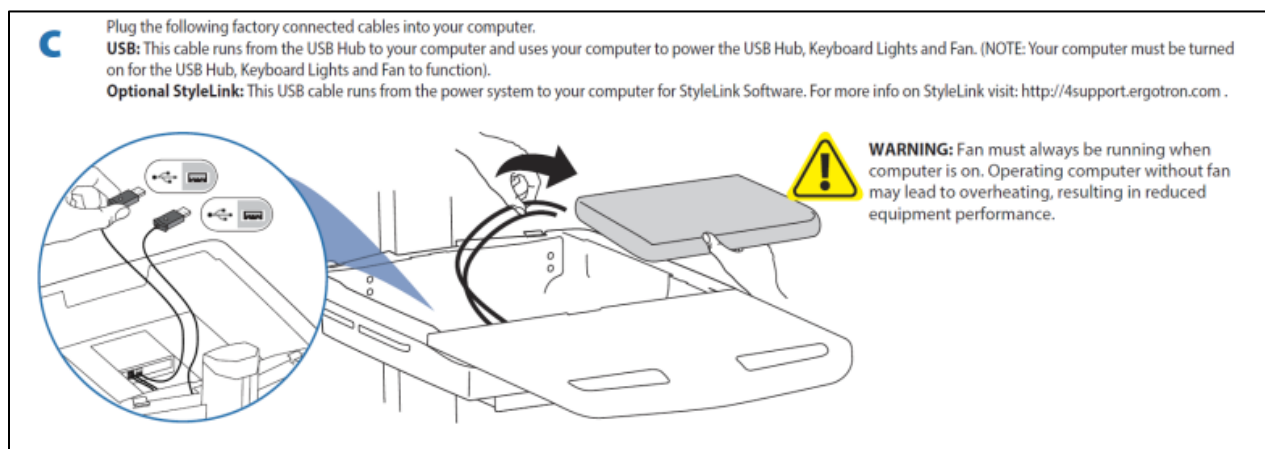
Why SKY?

- Seamless and centralized management of medical carts from a web browser
- Avoid removing carts from clinical service
- Monitor and manage battery usage patterns
- Improve battery life expectancy
- Control access to drawers and keep a usage log
- Safe, secure and HIPAA compliant; runs remotely from a secure data center

<https://www.ergotron.com/en-us/support/ekinnex/stylelink-sky>.

25. Further according to claim 1, the “computer controller,” “power system controller,” and “cassette drawer controller” are “interfaced” with the Accused Ergotron Carts.

26. As illustrated below, the “computer controller” that would be installed on the Accused Ergotron Carts are interfaced with the cart:



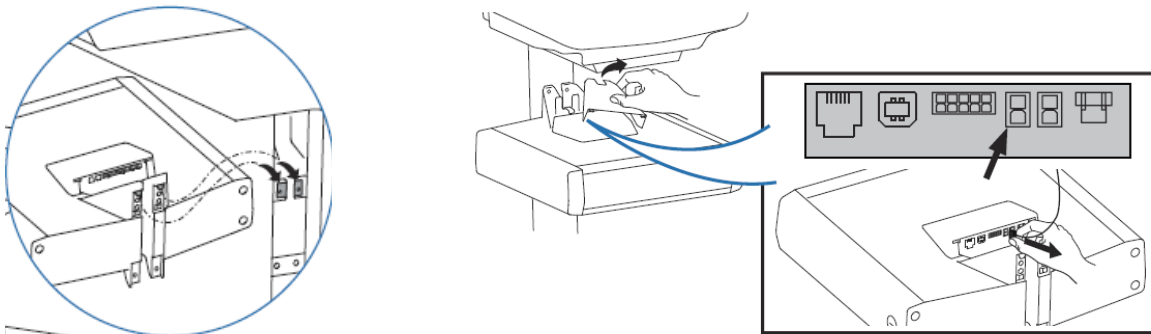
<https://media.ergotron.com/reserved/resources/888-24-302-g-orig.pdf>. As shown below, the “power system controller” on the Accused Ergotron Carts is interfaced with the cart:

20. Power System

The StyleView AC Power System allows your power supply to travel with the cart. The Power System is integrated in the base of the cart and comes standard with 2 batteries, power module, User Interface (UI), outlet box and power cord.

- User Interface (UI): Allows power system output to be turned on or turned off, monitors battery charge remaining, and provides low battery charge audible alarm.
- Two 33 Ah Sealed Lead Acid, Absorbed Glass Mat, 12VDC batteries.
- The minimum operational temperature is 10°C (50°F) and the maximum operational temperature is 29°C (86°F). The recommended humidity range for operation is 5-95% rH.
- The recommended cart storage temperature is 15°C (59°F). At this temperature, the battery's age-related capacity loss is minimized. The minimum storage temperature is -20°C (-4°F) and the maximum storage temperature is 50°C (122°F). The recommended humidity range for storage is 5-95% rH.

(Id.). As illustrated below, the “cassette drawer controller” on the Accused Ergotron Carts is interfaced with the cart:



(Id.). The PIN entry box is also interfaced with the cart:



(Id.). The Ergotron StyleLink SKY software is also interfaced with the cart.

Why SKY?

- Seamless and centralized management of medical carts from a web browser
- Avoid removing carts from clinical service
- Monitor and manage battery usage patterns
- Improve battery life expectancy
- Control access to drawers and keep a usage log
- Safe, secure and HIPAA compliant; runs remotely from a secure data center

<https://www.ergotron.com/en-us/support/ekinnex/stylelink-sky>.

27. Upon information and belief, the “computer controller” used with the Accused Ergotron Carts “receives computer controller input and generates computer controller output,” as claimed. (See Paragraphs 17 and 25).

28. As shown below, the “power system controller” on the Accused Ergotron Carts receives power system input and generates power system output:

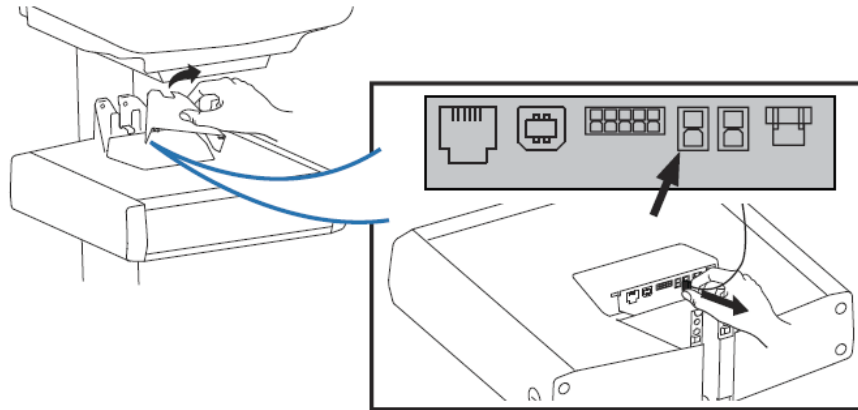
20. Power System

The StyleView AC Power System allows your power supply to travel with the cart. The Power System is integrated in the base of the cart and comes standard with 2 batteries, power module, User Interface (UI), outlet box and power cord.

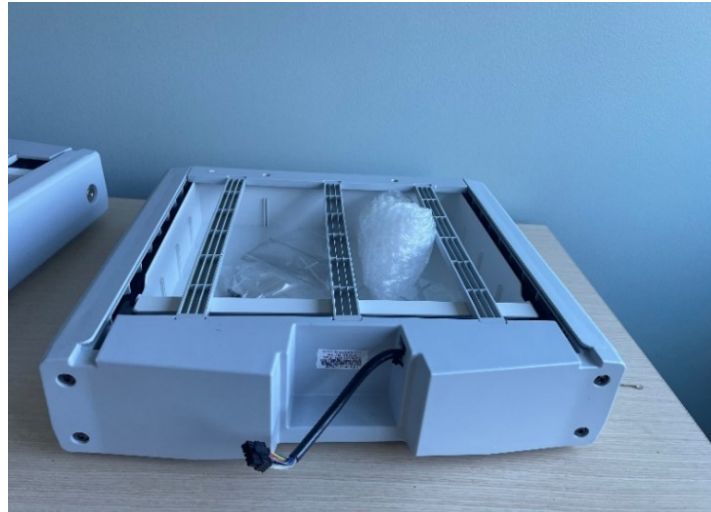
- User Interface (UI): Allows power system output to be turned on or turned off, monitors battery charge remaining, and provides low battery charge audible alarm.
- Two 33 Ah Sealed Lead Acid, Absorbed Glass Mat, 12VDC batteries.
 - The minimum operational temperature is 10°C (50°F) and the maximum operational temperature is 29°C (86°F). The recommended humidity range for operation is 5-95% rH.
 - The recommended cart storage temperature is 15°C (59°F). At this temperature, the battery’s age-related capacity loss is minimized. The minimum storage temperature is -20°C (-4°F) and the maximum storage temperature is 50°C (122°F). The recommended humidity range for storage is 5-95% rH.

<https://media.ergotron.com/reserved/resources/888-24-302-g-orig.pdf>.

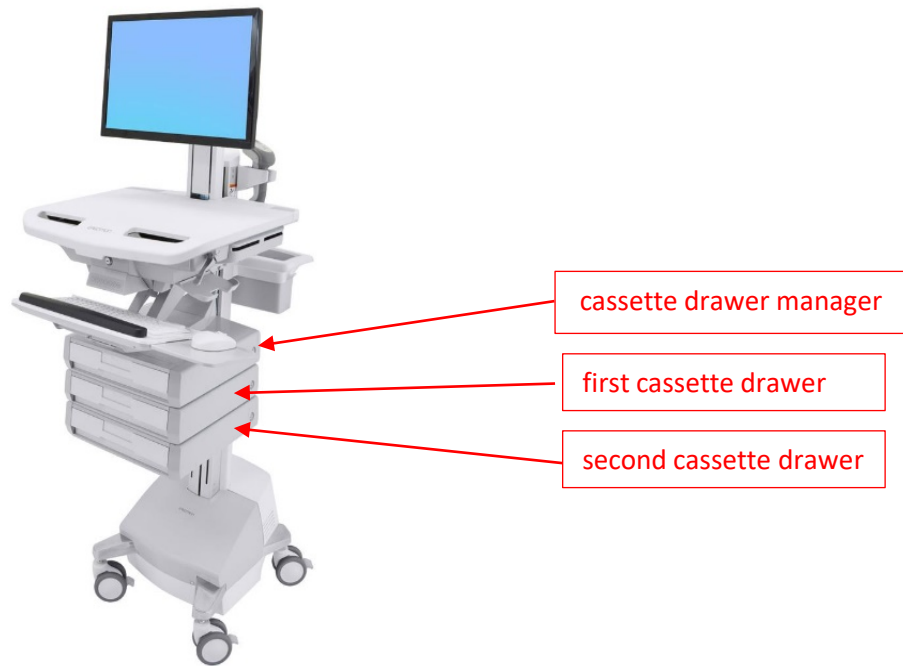
29. The “cassette drawer controller” on the Accused Ergotron Carts “receives cassette drawer input and generates cassette drawer output,” as claimed. As shown below, the “cassette drawer controller” on the Accused Ergotron Carts have input and output connectors to receive input and generate output:



(*Id.*). As further shown below, additional cassette drawers on the Accused Ergotron Carts include connectors for receiving control output from the cassette drawer controller:

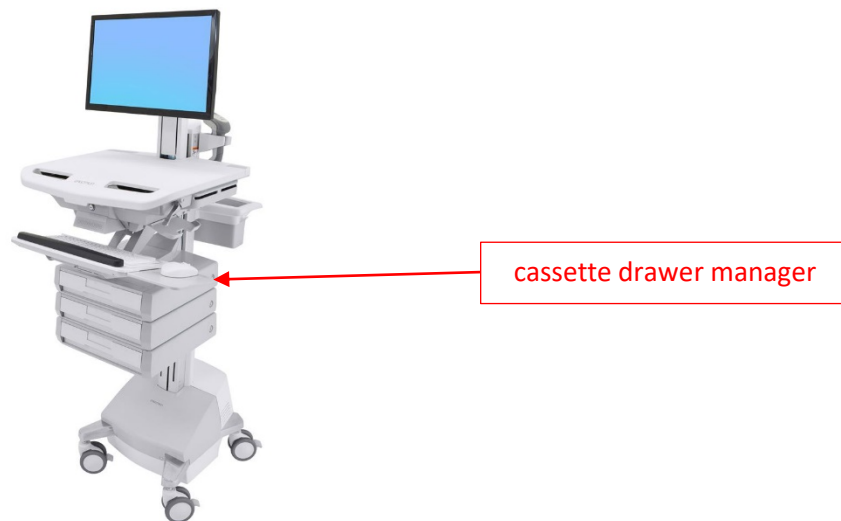


30. The “cassette drawer system” on the Accused Ergotron Carts is “modularized,” as claimed. (*See* Paragraph 23).

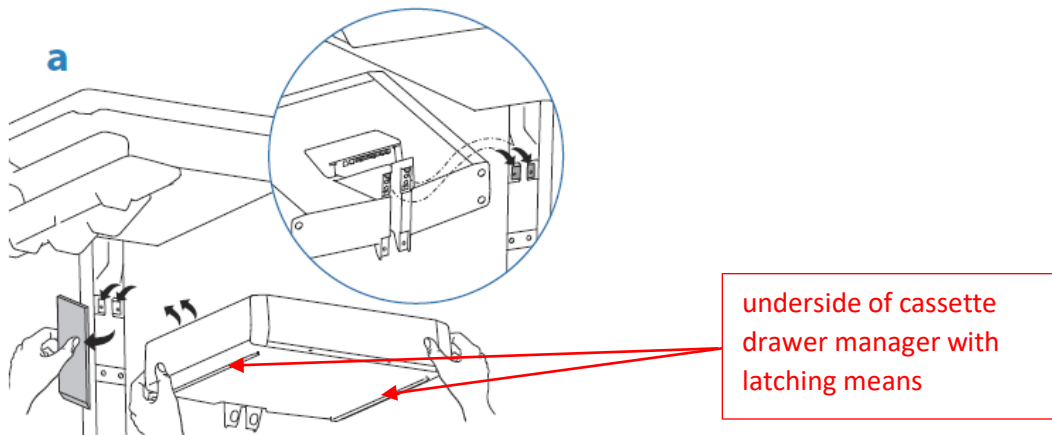


31. As shown below, the Accused Ergotron Carts include a “first cassette drawer” and a “second cassette drawer,” as claimed.

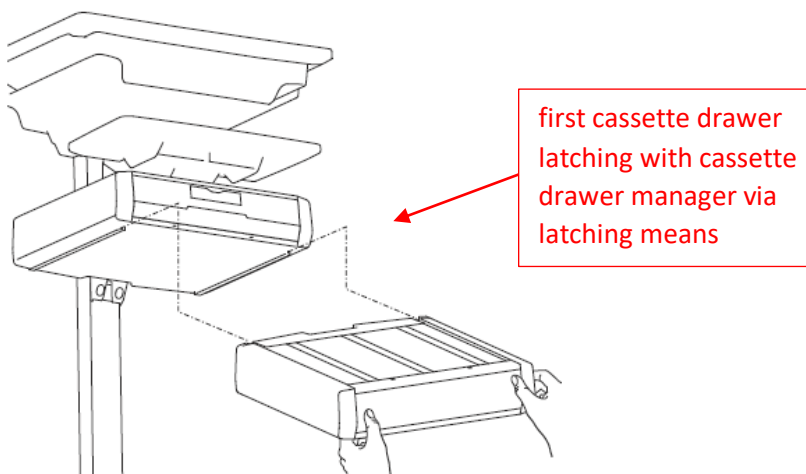
32. On the Accused Ergotron Carts, “the underside of said cassette drawer manager includes a first means for latching said first cassette drawer to said cassette drawer manager,” as claimed:



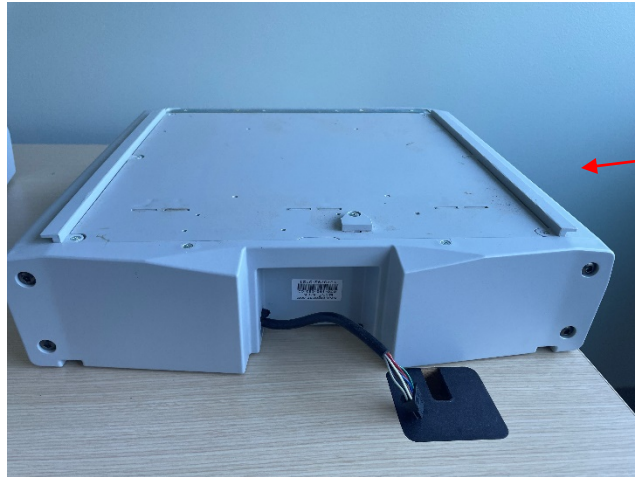
2 Hang the drawer tabs onto the brackets on the cart.



4 Slide the drawer only half way onto the bottom tracks of the top drawer.



33. On the Accused Ergotron Carts, “the underside of said cassette drawer includes a second means for latching a second cassette drawer to said first cassette drawer,” as claimed:



underside of first
cassette drawer with
latching means



second cassette drawer
can be latched to first
cassette drawer via
latching means on first
cassette drawer

Willful Infringement of the '485 Patent

34. Ergotron's infringement has been willful or otherwise egregious. As described above (paragraphs 14-15), at least as early as July 2016, but no later than December 10, 2021, Ergotron had knowledge of the existence of the '485 patent. More, Ergotron had knowledge of, or was willfully blind to, the fact that its continued sales of the Accused Ergotron Carts induced or contributed to infringement of the '485 Patent. For example, despite being made aware of the '485 patent in 2016, Ergotron disregarded such notice and responded merely that Ergotron did not "have any plans for advancing our medication drawer technology in the direction of the [MV Circuit] system." (Exh. B). But, as shown above, after having specific knowledge of the '485 patent, Ergotron either advanced its medication drawer technology in the direction of the patented system

or continued selling its implicated products with knowledge of the '485 Patent, and thus knew, or was willfully blind to, the fact that its actions constituted an unjustifiably high risk of infringement of the '485 patent.

DAMAGES

35. Blackbird Technologies has sustained damages as a direct and proximate result of Ergotron's infringement of the '485 patent.

36. As a consequence of Ergotron's past infringement of the '485 patent, Blackbird Technologies is entitled to the recovery of past damages in the form of, at a minimum, a reasonable royalty.

37. All requirements under 35 U.S.C. § 287(a) have been complied with. As explained above (paragraphs 14-15), Ergotron had actual notice of the '485 patent. As early as July 2016, but no later than December 10, 2021, Ergotron had knowledge of the '485 patent and knowledge the Accused Ergotron Carts are especially made or especially adapted for use in an infringement of the '485 patent.

38. As a consequence of Ergotron's continued and future infringement of the '485 patent, Blackbird Technologies is entitled to royalties for its infringement of the '485 patent on a going-forward basis.

39. As a consequence of Ergotron's willful or otherwise egregious infringement of the '485 patent, Blackbird Technologies is entitled to treble damages pursuant to 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, Blackbird Technologies respectfully requests that this Court enter judgment against Defendant, as follows:

A. Adjudging that Defendant has indirectly infringed at least claim 1 of the '485 patent literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. § 271(b)-(c);

B. An award of damages to be paid by Defendant adequate to compensate Blackbird Technologies for Defendant's past infringement and any continuing or future infringement up until the date such judgment is entered, and in no event less than a reasonable royalty, including interest, costs, and disbursements pursuant to 35 U.S.C. § 284 and, if necessary to adequately compensate Blackbird Technologies for Defendant's infringement, an accounting of all infringing sales including, but not limited to, those sales not presented at trial;

C. Awarding Blackbird Technologies all damages, including treble damages, based on any infringement found to be willful or otherwise egregious, pursuant to 35 U.S.C. § 284;

D. Ordering Defendant to continue to pay royalties to Blackbird Technologies for infringement of the '485 patent on a going-forward basis;

E. Adjudging that this case be exceptional under 35 U.S.C. § 285 and awarding enhanced damages, including costs and attorneys' fees, to Blackbird Technologies;

F. Awarding Blackbird Technologies pre-judgment and post-judgment interest at the maximum rate permitted by law on its damages; and

G. Granting Blackbird Technologies such further relief as this Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Blackbird Technologies demands a trial by jury on all claims and issues so triable.

Dated: May 31, 2022

/s/ Wesley E. Schwie
Wesley E. Schwie
Minnesota Attorney I.D. 0397243
wes@galliumlaw.com
GALLIUM LAW
445 Minnesota St., Suite 1500
St. Paul, MN 55101
(651) 256-9480

Wendy Verlander
wverlander@verlanderllp.com
VERLANDER LLP
200 Baker Avenue, Suite 303
Concord, MA 01742
(978) 707-4455

Jeffrey Ahdoot
jahdoot@verlanderllp.com
VERLANDER LLP
700 12th Street NW, Suite 700
Washington, DC 20005
(202) 800-5771

Attorneys for Plaintiff
Blackbird Tech LLC
d/b/a Blackbird Technologies