

this danger and resulting injuries. Notwithstanding its actual and presumed knowledge of the nature and number of incidents, the seriousness of the injuries, and the tree stands detaching and/or falling from trees to the ground, Ardisam provided no notice and no information about the tree stands to the CPSC until a telephone call on April 29, 2004. On May 12, 2004, Ardisam submitted a report pursuant to 15 U.S.C. § 2064(b) to the Commission.

DEFENDANT

4. Ardisam is a corporation existing under the laws of the State of Wisconsin. Its principal place of business is in Cumberland, Wisconsin.

5. At all times relevant hereto, Ardisam was a “manufacturer” of the tree stands as defined in 15 U.S.C. § 2052(a)(4).

CONSUMER PRODUCT SAFETY ACT

6. The CPSC is an independent federal regulatory agency that enforces the Consumer Product Safety Act (“CPSA”), 15 U.S.C. §§ 2051-2084 (2006). One of the purposes of the CPSA is to protect the public against unreasonable risks of injury associated with consumer products.

7. Under the CPSA, every manufacturer of a consumer product distributed in commerce is required to “immediately inform the Commission” of certain information. 15 U.S.C. § 2064(b)(2) and (b)(3).

8. Under the CPSA, “[e]very manufacturer of a consumer product distributed in commerce . . . who obtains information which reasonably supports the conclusion that such product . . . contains a defect which could create a substantial product hazard . . . shall immediately inform the Commission” of the defect unless the manufacturer “has actual knowledge that the Commission has been adequately informed” of the defect. 15 U.S.C.

§ 2064(b)(2).

9. The CPSA defines “substantial product hazard” at 15 U.S.C. § 2064(a)(2) as a product defect that “creates a substantial risk of injury to the public.”

10. The CPSA also requires that “[e]very manufacturer of a consumer product distributed in commerce . . . who obtains information which reasonably supports the conclusion that such product . . . creates an unreasonable risk of serious injury or death, shall immediately inform the Commission” of the risk unless the manufacturer “has actual knowledge that the Commission has been adequately informed” of the risk. 15 U.S.C. § 2064(b)(3).

11. The failure to furnish information required by 15 U.S.C. § 2064(b) is a prohibited act under the CPSA. 15 U.S.C. § 2068(a)(4).

12. Any person who knowingly violates 15 U.S.C. § 2068 is subject to civil penalties. 15 U.S.C. § 2069(a)(1). The CPSA defines “knowingly” as “(1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.” 15 U.S.C. § 2069(d).

FACTS

13. Beginning in or about January 1998 through July 2001, Ardisam manufactured approximately 78,310 Big Foot and Lite Foot series hunting tree stands (including tree stand models identified as Big Foot 49990, Big Foot XL 49991, Big Foot XL Lounger 49992, BFXL Lounger Supreme 49993, Big Foot Ultra Lite 49995, Big Foot Revolver 49996, Big Foot XL Revolver 49997, Lite Foot 49995, and Lite Foot XL 49994) (hereafter “tree stands”). The tree stands were designed to be hung in trees to allow consumers to hunt from an elevated position.

Beginning in or about January 1998 through September 2001, Ardisam sold the tree stands to retailers, catalogers, and distributors throughout the United States.

14. The tree stands were produced for sale to consumers for use in recreation or otherwise, or for the use or enjoyment of consumers in recreation or otherwise. Each of the tree stands is a "consumer product" as that term is defined in 15 U.S.C. § 2052(a)(1).

15. All of the tree stands have dual upright posts with a seat and platform on which a consumer may sit and stand.

16. All of the tree stands were manufactured for consumers with a strap affixed to a bracket on one post of the tree stand. The strap is used by a consumer to hang the tree stand onto a tree. A consumer wraps the strap around the tree and places the hook at the strap end into a bracket affixed to a post on the opposite side of the tree stand.

17. All of the tree stands were manufactured for consumers with a strap and hook, brackets, locknuts, and bolts affixed to the tree stand.

18. In or around April 2000, Ardisam received the first notice of a lawsuit alleging unexpected detachment of a tree stand, while a consumer was in it, from a tree. The lawsuit alleged that a tree stand was erected in a tree and as the consumer went to sit on it, the tree stand unexpectedly collapsed causing the consumer to fall to the ground suffering serious injuries, including a broken ankle. The consumer alleged that the tree stand was defective.

19. After Ardisam received the lawsuit described in paragraph 18, Ardisam began developing changes to the bracket and hook used by consumers to hang the tree stands onto a tree. Ardisam began manufacturing and selling new stands with these modifications in or around July 2001.

20. The tree stands, as described in paragraph 13, and the information Ardisam received that is the subject of this action, did not contain the July 2001 modifications.

21. In or around October 2000, Ardisam received notification from two consumers advising that their tree stands released from trees causing them to fall to the ground.

22. In or around December 2000, regarding one of the aforementioned October 2000 reports, Ardisam received a consumer product incident report from the CPSC's National Injury Information Clearinghouse ("Clearinghouse"). Along with the consumer report, Ardisam also received a letter from the CPSC's Director of the Clearinghouse that explained reporting requirements of 15 U.S.C. § 2064(b) and informed Ardisam to consider whether it had a reporting obligation.

23. The consumer report that the Clearinghouse sent to Ardisam stated, in part, that a consumer was standing in a tree stand when it unhooked causing the consumer to fall 13 feet to the ground. The consumer reported a sprained right wrist, shoulder, and bruises to his right leg. The consumer report also recorded the consumer's concern that the tree stand was unsafe and presented an injury hazard.

24. From April 2000 to May 2004, Ardisam received information that the tree stands unexpectedly detached from trees causing serious injury to consumers. The information included reports that the tree stands unhooked, gave way, disengaged, broke or malfunctioned, broke loose from trees, and were defective, unsafe, and unreasonably dangerous.

25. From April 2000 to May 2004, Ardisam received information of at least nine incidents reporting that the tree stands unexpectedly detached from trees while consumers were on them causing them to suffer serious injuries including broken bones, ligament, cartilage, and muscle

tears, ruptured spleen, and head, neck, and back injuries. Some consumers reported suffering permanent disfigurement, scarring, and disability.

26. From April 2000 through April 2004, at least five of those nine consumers sued Ardisam alleging that the tree stands were defective and dangerous.

27. On or about May 12, 2004, Ardisam sent a written report to the CPSC pursuant to 15 U.S.C. § 2064(b) reporting information about tree stand consumer incidents and Ardisam's 2001 modifications of the tree stands. Other than its April 29, 2004, telephone call concerning the tree stands, this report was the first time Ardisam provided the CPSC with any information.

28. Prior to May 12, 2004, the CPSC had not been adequately informed that the tree stands contained a defect or defects that could create a substantial product hazard and/or that the tree stands created an unreasonable risk of serious injury or death.

29. On July 6, 2004, Ardisam and the CPSC issued a joint press release announcing a recall of the tree stands and that Ardisam would provide consumers with replacement hardware.

30. At no time prior to July 6, 2004, did Ardisam notify or warn tree stand purchasers of the danger of the tree stands unexpectedly detaching from trees.

COUNT I

31. Paragraphs 1-30 are incorporated by reference and realleged as if set forth fully herein.

32. Well before May 2004, Ardisam had obtained information that reasonably supported the conclusion that the tree stands contained a defect or defects, including but not limited to, a defect or defects in design, manufacturing, instructions, warnings, and/or hardware that could create a substantial product hazard, *i.e.*, a defect or defects that could create a substantial risk of injury to the public.

33. Ardisam was required by 15 U.S.C. § 2064(a)(2) and (b)(2) to immediately inform the CPSC of the information it had obtained, as summarized in the preceding paragraphs herein, regarding a defect or defects in the tree stands that could create a substantial product hazard.

34. From the time it obtained the information regarding a defect or defects that could create a substantial product hazard, and continuing until at least May 12, 2004, when Ardisam finally furnished the information to the CPSC, and separately as to each tree stand distributed in commerce, Ardisam knowingly violated 15 U.S.C. § 2068(a)(4) by failing to furnish the CPSC with the required information.

COUNT II

35. Paragraphs 1-30 are incorporated by reference and realleged as if set forth fully herein.

36. Well before May 2004, Ardisam had obtained information about the tree stands that reasonably supported the conclusion that the tree stands created an unreasonable risk of serious injury or death.

37. Ardisam was required by 15 U.S.C. § 2064(b)(3) to immediately furnish the CPSC with the information it had obtained, as summarized in the preceding paragraphs herein, regarding the unreasonable risk of serious injury or death created by the tree stands.

38. From the time it obtained the information regarding the unreasonable risk of serious injury or death and continuing until at least May 12, 2004, when Ardisam finally furnished the information to the CPSC, and separately as to each tree stand distributed in commerce, Ardisam knowingly violated 15 U.S.C. § 2068(a)(4) by failing to furnish the CPSC with the required information.

RELIEF REQUESTED

WHEREFORE, the United States respectfully requests that this Court:

I. Assess civil penalties of up to \$1,650,000 against Ardisam in accordance with 15 U.S.C. § 2069, for each separate violation and the related series of violations alleged in Counts I and II of this Complaint.

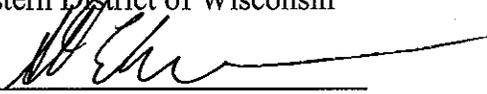
II. Award plaintiff judgment for its costs and for such other and further relief that this Court deems just and proper.

DATED: July 26, 2007

Respectfully submitted,

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