

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

STEVE M. JOHNSON,)	
)	
<i>Plaintiff,</i>)	
)	Case No:
v.)	
)	Jury Trial Demanded
ANDRAE D'ACQUISTO and LONE WOLF)	
MANUFACTURING COMPANY, INC.,)	
)	
<i>Defendants.</i>)	
_____)	

COMPLAINT

Plaintiff Steve M. Johnson (“Johnson”) brings this action for patent infringement against defendant Andrae D’Acquisto (“D’Acquisto”) and defendant Lone Wolf Manufacturing Company, Inc. (“Lone Wolf Manufacturing”) (collectively “Defendants”) seeking damages and injunctive relief. Johnson alleges as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, alleging infringement of United States Patent Nos. 6,662,903 (“the ’903 patent”) and 6,264,000 (“the ’000 patent”). A copy of the ’903 and ’000 patents are attached hereto as **Exhibits A and B**, respectively, and are incorporated herein by reference in their entirety.

2. This Court has exclusive subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over D'Acquisto because D'Acquisto has conducted business in this district involving the infringing product.

4. This Court has personal jurisdiction over Lone Wolf Manufacturing because Lone Wolf Manufacturing has conducted business in this district involving the infringing product.

5. Venue is proper under 28 U.S.C. §§ 1391(b), 1391(c) and/or 1400(b), in that a substantial part of the events giving rise to Johnson's claims occurred in the Central District of Illinois and each defendant is subject to personal jurisdiction in the Central District of Illinois (and thus for purposes of venue each defendant resides in the Central District of Illinois).

PARTIES

6. Steve M. Johnson is an individual inventor having his place of business at 418 Christian Bend Road, Church Hill, Tennessee 37642.

7. On information and belief and after a reasonable opportunity for further discovery, Andrae D'Acquisto resides at 3308 E. Grange Avenue Cudahy, Wisconsin 53110.

8. On information and belief and after a reasonable opportunity for further discovery, Lone Wolf Manufacturing, Inc. is a corporation existing under the laws of Wisconsin, having its principal place of business at 3308 E. Grange Avenue, Cudahy, Wisconsin 53110.

THE PATENTS-IN-SUIT

'903 Patent

9. The '903 patent entitled "Tree Stand and Climbing Devices" was duly and legally issued on December 16, 2003.

10. The inventor of the '903 patent is Steve M. Johnson.

11. The '903 patent is valid and enforceable and has been at all times relevant to the instant action.

12. The '903 patent claims a stand and/or climbing device with a platform and at least one locking device and one belt for attaching the device to a desired structure in a fixed position.

13. Specifically, Claim 1 of the '903 patent claims:

A device which comprises a platform, having at least one locking device and at least one belt for attaching said device to a desired structure, said at least one locking device capable of engaging said at least one belt in a fixed position, wherein said belt comprises a plurality of teeth spaced along the length of said at least one belt.

14. Basically, to infringe claim 1, a device must have a platform that can be locked in place on a desired structure (such as a tree) through the use of a belt with teeth.

'000 Patent

15. The '000 patent entitled "Tree Stand and Climbing Devices" was duly and legally issued on July 24, 2001.

16. Steve M. Johnson is also the inventor of the '000 patent.

17. The '000 patent is valid and enforceable and has been at all times relevant to the instant action.

18. The '000 patent claims a tree stand having at least one belt and locking device for attaching such tree stand to a desired structure in a fixed position.

19. Specifically, Claim 1 of the '000 patent claims:

A tree stand comprising a platform having at least one belt for attaching said tree stand to a desired structure, said at least one belt attached to said platform at a first position and at least one locking device which engages said belt in a manner mechanically retain said belt in a fixed position, said locking device attached to said platform at a second position, wherein said belt comprises a plurality of teeth spaced along the length of said belt and positioned substantially perpendicular to the length of said belt.

20. Basically, to infringe claim 1, a tree stand must comprise a platform that can be locked in place on a desired structure (such as a tree) through the use of a belt with teeth.

THE INFRINGERS

21. From 2001 to 2006, D'Acquisto made, used, sold, and offered for sale tree stands, such as the Lone Wolf® Alpha Hand Climber Combo Treestand and the Lone Wolf® Alpha Sit & Climb Treestand.

22. From 2001 to 2006, Lone Wolf Manufacturing made, used, sold, and offered for sale tree stands, such as the Lone Wolf® Alpha Hand Climber Combo Treestand and the Lone Wolf® Alpha Sit & Climb Treestand.

23. Both the Alpha Hand Climber Combo and Alpha Sit & Climb (as well as other similar tree stands that D'Acquisto and Lone Wolf Manufacturing may have offered) fall within at least claim 1 of both the '903 and '000 patents.

24. For example, the Alpha Hand Climber comprises a platform with two locking devices attached to it with belts, and the locking devices therein are capable of engaging the belt in a fixed position.

25. The Alpha Hand Climber's two belts have multiple teeth which are utilized in the locking device.

26. Further, each locking device on the platform has a plurality of teeth.

27. Thus, the Alpha Hand Climber meets all the limitations of at least claim 1 of both the '903 and '000 patents.

COUNT I **D'ACQUISTO'S PATENT INFRINGEMENT UNDER 35 U.S.C. § 271 OF THE '903** **PATENT**

28. Johnson incorporates by reference the allegations of paragraphs 1-27.

29. D'Acquisto has directly or indirectly infringed the '903 patent at a minimum by making, using, selling, offering for sale and or importing tree stands such as the Alpha Hand Climber Treestand and the Alpha Sit & Climb Treestand.

30. D'Acquisto has also contributed to the infringement of the '903 Patent, and/or actively induced others to infringe the '903 Patent, in this district and elsewhere in the United States.

31. D'Acquisto has caused Johnson substantial damage and irreparable injury by virtue of his infringement.

32. Johnson is entitled to recover from D'Acquisto the damages sustained by Johnson as a result of D'Acquisto's wrongful acts in an amount subject to proof at trial.

33. D'Acquisto has had knowledge of the '903 patent since at least 2006.

34. Upon information and belief, and after an opportunity for further discovery, D'Acquisto's infringement of the '903 patent is willful and deliberate.

COUNT II
D'ACQUISTO'S PATENT INFRINGEMENT UNDER 35 U.S.C. § 271 OF THE
'000 PATENT

35. Johnson incorporates by reference the allegation of paragraphs 1-34.

36. D'Acquisto has directly or indirectly infringed the '000 patent at a minimum by producing tree stands such as the Alpha Hand Climber Treestand and the Alpha Sit & Climb Treestand.

37. D'Acquisto has also contributed to the infringement of the '000 Patent, and/or actively induced others to infringe the '000 Patent, in this district and elsewhere in the United States.

38. D'Acquisto has caused Johnson substantial damage and irreparable injury by virtue of such infringement.

39. Johnson is entitled to recover from D'Acquisto the damages sustained by Johnson as a result of D'Acquisto's wrongful acts in an amount subject to proof at trial.

40. D'Acquisto has had knowledge of the '000 patent since at least 2006.

41. Upon information and belief and after an opportunity for further discovery, D'Acquisto's infringement of the '000 patent is willful and deliberate.

COUNT III
LONE WOLF MANUFACTURING'S PATENT INFRINGEMENT UNDER 35 U.S.C. §
271 OF THE '903 PATENT

42. Johnson incorporates by reference the allegations of paragraphs 1-41.

43. Lone Wolf Manufacturing has directly or indirectly infringed the '903 patent at a minimum by making, using, selling, offering for sale and or importing tree stands such as the Alpha Hand Climber Treestand and the Alpha Sit & Climb Treestand.

44. Lone Wolf Manufacturing has also contributed to the infringement of the '903 Patent, and/or actively induced others to infringe the '903 Patent, in this district and elsewhere in the United States.

45. Lone Wolf Manufacturing has caused Johnson substantial damage and irreparable injury by virtue of such infringement.

46. Johnson is entitled to recover from Lone Wolf Manufacturing the damages sustained by Johnson as a result of Lone Wolf Manufacturing's wrongful acts in an amount subject to proof at trial.

47. Lone Wolf Manufacturing has had knowledge of the '903 patent since at least 2006.

48. Upon information and belief, and after an opportunity for further discovery, Lone Wolf Manufacturing's infringement of the '903 patent is willful and deliberate.

COUNT IV
LONE WOLF MANUFACTURING'S PATENT INFRINGEMENT UNDER 35 U.S.C.
§ 271 OF THE '000 PATENT

49. Johnson incorporates by reference the allegation of paragraphs 1-48.

50. Lone Wolf Manufacturing has directly or indirectly infringed the '000 patent at a minimum by producing tree stands such as the Alpha Hand Climber Treestand and the Alpha Sit & Climb Treestand.

51. Lone Wolf Manufacturing has also contributed to the infringement of the '000 Patent, and/or actively induced others to infringe the '000 Patent, in this district and elsewhere in the United States.

52. Lone Wolf Manufacturing has caused Johnson substantial damage and irreparable injury by virtue of such infringement.

53. Johnson is entitled to recover from Lone Wolf Manufacturing the damages sustained by Johnson as a result of Lone Wolf Manufacturing's wrongful acts in an amount subject to proof at trial.

54. Lone Wolf Manufacturing has had knowledge of the '000 patent since at least 2006.

55. Upon information and belief and after an opportunity for further discovery, Lone Wolf Manufacturing's infringement of the '000 patent is willful and deliberate.

WHEREFORE, Johnson respectfully requests that the Court enter a judgment as follows:

A. That D'Acquisto and Lone Wolf Manufacturing have infringed the '903 and '000 patents under 35 U.S.C. § 271;

B. Requiring Defendants to:

1. Send a copy of any decision in this case in favor of Johnson to each person or entity to whom D'Acquisto and Lone Wolf Manufacturing has sold or otherwise distributed any products found to infringe the '903 and '000 patents, or induced to infringe the '903 and '000 patents, and informing such persons or entities of the judgment and that the sale or solicited commercial transaction was wrongful;

2. Recall and collect from all persons and entities that have purchased wholesale or are a distributor of any and all products found to infringe the '903 and '000 patents that were made, offered for sale, sold, or otherwise distributed by D'Acquisto, Lone Wolf Manufacturing or anyone acting on their behalf;

3. Destroy or deliver to Johnson all infringing equipment produced by D'Acquisto and Lone Wolf Manufacturing; and

4. File with the Court and serve upon Johnson, within thirty (30) days after entry of final judgment in this case, a report in writing and subscribed under oath setting forth in detail the form and manner in which D'Acquisto and Lone Wolf Manufacturing have complied with the Court's orders as prayed for.

C. Awarding Johnson damages for patent infringement and pre-judgment interest pursuant to 35 U.S.C. § 284 including, but not limited to, lost profits and/or a reasonable royalty;

D. Awarding Johnson treble damages for willful infringement pursuant to 35 U.S.C. § 284;

E. Declaring the case exceptional and awarding Johnson reasonable costs and attorneys fees pursuant to 35 U.S.C. § 285; and

F. Granting Johnson such other and further relief as justice and equity may require.

JURY DEMAND

Johnson requests a jury trial.

Dated: August 27, 2008

Respectfully submitted,

By: s/ Jo Anna Pollock

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