

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KATCH KAN HOLDINGS USA, INC.;
KATCH KAN USA, LLC,

Plaintiffs,

v.

LUERA’S WELDING SERVICE, INC.,

Defendant.

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CIVIL ACTION NO. 4:13-cv-02148

ORIGINAL COMPLAINT

Plaintiffs Katch Kan Holdings USA, Inc. and Katch Kan USA, LLC (collectively, “Katch Kan”) file this Original Complaint against Luera’s Welding Service, Inc. as set forth below:

I. PARTIES

1. Plaintiff Katch Kan Holdings USA, Inc. (“Katch Kan Holdings”) is a Texas corporation with its registered agent for service at 1300 W. Sam Houston Parkway, Suite 340, Houston, Texas 77042.

2. Plaintiff Katch Kan USA, LLC (“Katch Kan USA”) is a Texas limited liability company with its principal place of business located at 1092 Old Hwy 105 W, Suite 102, Conroe, Texas 77304.

3. Defendant Luera’s Welding Service, Inc. (“LWS”) is a corporation organized under the laws of the State of Texas, having a place of business located at 3869 West Hwy 44, Alice, TX 78332. LWS may be served with a copy of this Original Complaint by serving its registered agent, Mr. Clyde L. Wright, Jr., at 1610 East Main Street #8, Alice, TX 78332.

II. NATURE OF THIS ACTION

4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101, et seq., and particularly 35 U.S.C. §§ 271-287.

III. JURISDICTION AND VENUE

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

6. Defendant LWS is subject to personal jurisdiction by virtue of its contacts with the State of Texas, and with the Southern District of Texas in particular. LWS voluntarily does business in this district.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

IV. FACTS

8. On September 11, 2001, U.S. Patent No. 6,286,593 (“the ‘593 patent”) was duly and legally issued by the U.S. Patent and Trademark Office (“PTO”) to Mr. Quinn Holtby for an invention relating to an “Oilwell Leak Containment Apparatus For A Completed Oilwell.” A true and correct copy of the ‘593 patent is attached hereto as Exhibit A. The ‘593 patent is presumed valid pursuant to 35 U.S.C. § 282.

9. On December 23, 2003, U.S. Patent No. 6,666,287 (“the ‘287 patent”) was duly and legally issued by the U.S. Patent and Trademark Office (“PTO”) to Mr. Quinn Holtby for an invention relating to a “Method And Apparatus For Enclosing An Oil Drilling Rig.” A true and correct copy of the ‘287 patent is attached hereto as Exhibit B. The ‘287 patent is presumed valid pursuant to 35 U.S.C. § 282.

10. On June 10, 2013, Mr. Quinn Holtby assigned the ‘593 patent and the ‘287 patent to Katch Kan Holdings.

11. Katch Kan USA is the exclusive master dealer of Katch Kan products in the continental United States (lower 48 states). In Texas, Katch Kan USA rents to end users spill containment devices incorporating the technology of the '593 patent and the '287 patent (collectively, "the Katch Kan patents"). These spill containment devices are marketed under Katch Kan's "Zero Spill System" product line and have been very successful in the market since their introduction.

12. On information and belief, LWS is a welding company specializing in welding of structures, rigs, compressors, and pipelines, as well as in the installation of wellheads. On information and belief, LWS regularly provides services to drilling contractors and oilfield customers.

13. On information and belief, LWS makes, uses, sells and/or offers to sell oil rig spill containment devices covered by the claims of the '593 patent.

14. On information and belief, LWS makes, uses, sells and/or offers to sell oil rig spill containment devices covered by the claims of the '287 patent when installed on an oil rig.

15. On information and belief, LWS has made, used, sold, or offered to sell at least twenty-three oil rig spill containment devices covered by the claims of the Katch Kan patents.

16. On information and belief, LWS has made, used, sold, or offered to sell oil rig spill containment devices covered by the claims of the Katch Kan patents to Precision Drilling Co. LP ("Precision"), Helmerich & Payne, Inc. ("H&P") and to Ensign Energy Services Inc. ("Ensign"). LWS has sold the majority of its devices to Precision.

17. On information and belief, LWS has manufactured, sold, or offered for sale the oil rig spill containment devices covered by the claims of the Katch Kan patents in Jim Wells County, Texas. On information and belief, LWS's oil rig spill containment devices covered by

the claims of the Katch Kan patents are used and installed on rigs operating in Gonzalez County and other counties in South Texas.

V. PATENT INFRINGEMENT CLAIMS

18. Paragraphs 1 – 17 are incorporated by reference.

19. LWS has been, and still is, making, using, offering to sell, and/or selling products that infringe one or more valid claims of the Katch Kan patents without authority or license from Katch Kan.

20. Upon information and belief, LWS's infringing activities have been willful and deliberate. Upon information and belief, LWS was actually aware of the Katch Kan patents and willfully committed acts of infringement.

21. As a result of LWS's infringing activities, Katch Kan has suffered actual damages in an amount to be determined at trial. Additionally, as a result of the willful and deliberate nature of LWS's infringing activities, Katch Kan is entitled to a trebling of its actual damages and is entitled to recover its attorney's fees and costs incurred in prosecuting this action, as provided for in 35 U.S.C. §§ 284-285.

22. LWS's acts of infringement have caused irreparable harm to Katch Kan for which there is no adequate remedy at law, and will continue to cause irreparable harm to Katch Kan unless LWS is preliminarily and permanently enjoined by this Court.

VI. PRAYER FOR RELIEF

Wherefore, Katch Kan respectfully requests that this Honorable Court enter judgment against LWS, granting Katch Kan the following relief:

- A. a preliminary and permanent injunction enjoining LWS, its owners, affiliates, officers, directors, managers, agents, servants, employees, trainees, and all persons in active concert or participation with it, from continuing to infringe United States Patent No. 6,286,593;

- B. a preliminary and permanent injunction enjoining LWS, its owners, affiliates, officers, directors, managers, agents, servants, employees, trainees, and all persons in active concert or participation with it, from continuing to infringe United States Patent No. 6,666,287;
- C. a judgment that United States Patent No. 6,286,593 has been and continues to be directly infringed by LWS;
- D. a judgment that United States Patent No. 6,666,287 has been and continues to be directly infringed by LWS;
- E. an award of damages adequate to compensate Katch Kan for LWS's infringement of United States Patent No. 6,286,593;
- F. an award of damages adequate to compensate Katch Kan for LWS's infringement of United States Patent No. 6,666,287;
- G. a determination that LWS's infringement of United States Patent No. 6,286,593 has been willful and deliberate;
- H. a determination that LWS's infringement of United States Patent No. 6,666,287 has been willful and deliberate;
- I. an award of treble damages based on the willful and deliberate nature of LWS's infringement;
- J. a determination that this case is "exceptional" under 35 U.S.C. § 285, thereby entitling Katch Kan to an award of its reasonable attorney's fees and costs incurred in prosecuting this action;
- K. an award of pre-judgment and post-judgment interest on all damages computed; and
- L. such other relief as this Court deems fair and appropriate.

DATED: July 22, 2013

Respectfully Submitted,

By : /s/ Eric S. Schlichter
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