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Attorneys for Plaintiff Vaughn North

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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VAUGHN NORTH

Plaintiff,

vs.

ARCTIC CAT INC.,  
a Minnesota corporation,

Defendant.

**PLAINTIFF'S FIRST AMENDED  
COMPLAINT  
(JURY DEMANDED)**

Case No. 2:13-cv-00697-TS

Judge Ted Stewart

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Plaintiff Vaughn North files this First Amended Complaint against Artic Cat Inc. pursuant to Fed. R. Civ. P. 15(a)(1), alleging as follows:

**THE PARTIES**

1. Plaintiff Vaughn North (“Plaintiff” or “North”) is an individual having a residence in Salt Lake City, Utah.

2. Defendant Arctic Cat Inc. (“Defendant” or “Arctic Cat”) is a Minnesota corporation with its principal place of business at 505 Highway 169 North, Suite 1000, Plymouth, Minnesota 55441.

**JURISDICTION AND VENUE**

3. This is an action for infringement of a United States Patent arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of this action under 28 U.S.C. §1331 and §1338(a).

4. This Court has personal jurisdiction over Defendant. Defendant is subject to the Court’s general and specific jurisdiction consistent with the principles of due process and/or the Utah Long Arm Statute. Specifically, and upon information and belief, Defendant has substantial contacts with this forum as a result of substantial business activities conducted within the State of Utah and within this District. Defendant regularly solicits business in Utah and derives substantial revenue from products sold or provided to individuals and entities residing in Utah and, particularly, this District. Further, Defendant has committed and continues to commit acts of patent infringement in Utah and within this District through its making, using, selling and/or offering to sell products that infringe claims of the patent-in-suit.

5. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b). Defendant has imported, marketed, offered for sale, and, upon information and belief, sold its accused products in the District of Utah.

**CLAIM FOR RELIEF**  
**(Direct and Contributory Infringement of the '258 Patent)**

6. On February 9, 2010, United States Patent No. 7,658,258 (“the ’258 patent”) was duly and legally issued for an “All Terrain Vehicle Swept A-Frame Suspension and Central Support Truss.” A true and correct copy of the ’258 patent is attached hereto as Exhibit “A.”

7. Plaintiff Vaughn North is the assignee of the ’258 patent and owns all right, title, and interest in and to the ’258 patent, including the right to prosecute this action and recover past, present and future damages for the infringements alleged herein.

8. Defendant has infringed and continues to infringe the ’258 patent by making, using, selling, and/or offering for sale all terrain vehicles with a forward passenger compartment for carrying seats in a side-by-side configuration and a rearward engine compartment (the “Accused Vehicles”), including, for example, the Wildcat 1000.

9. In Spring of 2010, Plaintiff Vaughn North gave Defendant notice advising it of the ’258 patent and that certain Arctic Cat products, including the Wild Cat series of vehicles, fall within one or more claims of the ’258 patent.

10. Despite receiving notice from North notifying it of the ’258 patent and North’s belief that certain Arctic Cat products fall within one or more claims of the ’258 patent, Defendant has continued to make, use, sell, and/or offer for sale products, including the Wild Cat series of vehicles, that infringe one or more claims of the ’258 patent.

11. Defendant has contributed, and continues to contribute, to infringement of the ’258 patent by dealers and end-users of the Accused Vehicles by importing, selling, and/or offering to sell component parts that have no substantial non-infringing use and are especially adapted for use with the Accused Vehicles in a manner that infringes the ’258 patent. Such

component parts, include, for example, upper and lower A-arms for front suspension. These component parts are material to practicing at least claim 10 of the '258 patent, which recites “a forward suspension system for front wheels of the vehicle including at least one pair of A-frame members.” Defendant has known, or should have known, that component parts (*e.g.*, upper and lower A-arms for front suspension) that it imports, sells, and/or offers to sell are a material part of the claimed inventions based at least on service of North’s Original Complaint and receipt of North’s notice.

12. Despite having early knowledge of the '258 patent and knowledge that it is accused of infringing one or more claims of the '258 patent, Defendant has nevertheless continued its infringing conduct and disregarded an objectively high likelihood of infringement; thus, Defendant’s infringing activities related to the '258 patent have been, and continue to be, willful, wanton and deliberate in disregard of North’s rights.

13. Plaintiff Vaughn North has been damaged as a result of Defendant’s infringement of the '258 patent. Defendant is, thus, liable to North in an amount that adequately compensates North for its infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

**JURY DEMAND**

North hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**PRAYER FOR RELIEF**

North requests that the Court find in its favor and against Defendant, and that the Court grant North the following relief:

- a. Judgment that one or more claims of United States Patent No. 7,658,258 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant and/or by others to whose infringements Defendant has contributed;
- b. Judgment that Defendant account for and pay to North all damages to and costs incurred by North because of Defendant's infringing activities and other conduct complained of herein;
- c. Judgment that Defendant account for and pay to North a reasonable, ongoing, post judgment royalty because of Defendant's infringing activities and other conduct complained of herein;
- d. That Defendant's infringement of United States Patent No. 7,658,258 be found willful from the time that Defendant became aware of the infringing nature of its products, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;
- e. That North be granted pre-judgment and post judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and
- f. That North be granted such other and further relief as the Court may deem just and proper under the circumstances.

**Dated: October 9, 2013.**

Respectfully submitted,

PARR BROWN GEE & LOVELESS

/s/ Timothy B. Smith

Terry E. Welch

Timothy B. Smith

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**ATTORNEYS FOR PLAINTIFF**

**VAUGHN NORTH**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served a copy of this document on Arctic Cat Inc. by overnight mailing it to Arctic Cat Inc.'s Registered Office Address, 505 N Hwy 169, Suite 1000, Plymouth, MN 55441, and Michael Okerlund, Director of Legal for Arctic Cat, Inc., 505 N Hwy 169, Suite 1000, Plymouth, MN 55441 this 9th day of October 2013.

/s/ Ryan P. Griffin