

FLAMBEAU, INC.,	§	
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	§	
Plaintiff,	§	
	§	
v.	§	Case No. 13-cv-717
	§	
PRIMOS, INC.,	§	
	§	
Defendant.	§	
	§	

Plaintiff, Flambeau, Inc. (“Flambeau”), by its attorneys, Quarles & Brady LLP, for its Complaint against Defendant, Primos, Inc., hereby alleges as follows:

1. Flambeau is a Wisconsin corporation with its principal place of business at 801 Lynn Avenue, Baraboo, Wisconsin 53913.

2. On information and belief, Primos, Inc. d/b/a Primos Hunting (“Primos”) is a Mississippi corporation with its principal place of business in Flora, Mississippi.

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. Flambeau is seeking both injunctive relief and damages.

4. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331 and 1338 because this is a civil action for patent infringement arising under Title 35 of the United States Code.

5. This Court has personal jurisdiction over Primos because, on information and belief, Primos has committed and continues to commit acts of infringement in the State of Wisconsin, has conducted business in the State of Wisconsin and/or has engaged in continuous and systematic activities in the State of Wisconsin. Primos has made, sold, offered for sale, imported and/or induced the sale of infringing products, directly or through intermediaries, in or into Wisconsin, thereby causing injury and damages in Wisconsin which may result from acts committed outside Wisconsin, including but not limited to utilizing its own established distribution channels, or those of an intermediary, to market and/or sell infringing products in the State of Wisconsin. In conducting business in the State of Wisconsin, Primos derives substantial revenue from infringing products being sold in Wisconsin, and will continue to do so unless enjoined by this Court.

6. Venue for this matter is proper in this Court under 28 U.S.C. §§ 1391 and 1400 because, on information and belief, Primos has committed direct infringement in this District by making or importing infringing products in or into this District and/or selling, offering to sell or inducing the sale of infringing products in this District.

FACTS GIVING RISE TO THIS ACTION

7. On October 2, 2012, U.S. Patent No. 8,277,275 (“the ‘275 Patent”) entitled “Game Call Apparatus” was duly and legally issued. A copy of the ‘275 Patent is attached hereto as Exhibit A. The ‘275 Patent discloses an apparatus for producing a realistic game call of a rutted male deer by blowing into a mouthpiece, which causes a reed to vibrate in a tubular

inner sound chamber, with the air passing through and exiting from a tapered outer sound chamber.

8. Flambeau is the owner by assignment of the entire right, title and interest in the ‘275 Patent.

9. The invention claimed in the ‘275 Patent represents unique, non-obvious improvements upon previous game calls.

10. There are no acceptable non-infringing alternatives to the invention claimed in the ‘275 Patent.

11. On information and belief, Primos makes, uses, offers for sale, sells and/or induces the sale in the United States products that infringe Claim 1 of the ‘275 Patent.

12. Primos is one of Flambeau’s primary competitors in the game call industry, including with respect to game calls claimed in the ‘275 Patent.

13. Flambeau has provided notice of the existence of the ‘275 Patent and Primos’ infringement to Primos pursuant to 35 U.S.C. § 287 at least as early as April 18, 2013.

INFRINGEMENT OF THE ‘275 PATENT

14. Flambeau re-alleges and incorporates herein by reference the allegations contained in paragraphs 1-13.

15. Primos has infringed, and continues to infringe, directly and/or indirectly, Claim 1 of the ‘275 Patent, either literally or under the doctrine of equivalence, by making, selling, offering for sale, and/or inducing the sale in the United States products covered by Claim 1 of the ‘275 Patent, including the “Buck Roar” and the “Up Roar” game calls.

16. Primos’ infringement is intentional, willful, and/or in reckless disregard of Flambeau’s rights.

17. By its infringement, Primos has caused Flambeau to suffer and, unless enjoined by this Court, will cause Flambeau to continue to suffer, substantial injury, including lost profits, for which Flambeau is entitled to damages adequate to compensate Flambeau for Primos' infringement.

18. If Primos' infringement is not enjoined, Flambeau will suffer irreparable harm that cannot adequately be compensated by a monetary award.

REQUEST FOR RELIEF

WHEREFORE, Flambeau, Inc. respectfully requests judgment and relief against Primos as follows:

A. A judgment that Primos has directly infringed and is directly infringing Claim 1 of the '275 Patent;

B. A judgment that Primos has induced and is inducing infringement of Claim 1 of the '275 Patent;

C. A judgment that Primos' infringement of the '275 Patent is and has been willful;

D. An injunction pursuant to 35 U.S.C. § 283, restraining and enjoining Primos and its officers, agents, attorneys and employees, and those acting in privity or concert with them, from infringing the '275 Patent for the full term thereof and from inducing infringement of the '275 Patent;

E. An award of damages to Flambeau, including pre- and post-judgment interest, in an amount adequate to compensate for Primos' infringement of the '275 Patent, but in no event less than a reasonable royalty on Primos' use of Flambeau's invention;

F. An award trebling the damages pursuant to 35 U.S.C. § 284;

G. A declaration that this is an exceptional case under 35 U.S.C. § 285, and an award
Flambeau reasonable attorneys' fees; and

H. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues properly tried to a jury.

Dated this 15th day of October, 2013.

/s/ Martha Jahn Snyder
Anthony A. Tomaselli
aat@quarles.com
Bennett J. Berson
bennett.berson@quarles.com
Martha Jahn Snyder
martha.snyder@quarles.com
Quarles & Brady LLP
33 East Main Street, Suite 900
Madison, Wisconsin 53703-3095
Tel.: (608) 251-5000
Fax: (608) 291-5166

Attorneys for Plaintiff Flambeau, Inc.