

FILED
IN THE UNITED STATES DISTRICT COURT OFFICE
DISTRICT OF MASSACHUSETTS

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FRANCISCO THEBAUD,
Plaintiff,

v.

MERCEDES-BENZ USA, LLC,
Defendant.

U.S. DISTRICT COURT
DISTRICT OF MASS
Civil Action No.

06 - 11199 GAO

MAGISTRATE JUDGE RBC

COMPLAINT AND DEMAND FOR TRIAL BY JURY

Plaintiff, Francisco Thebaud, hereby submits this complaint for patent infringement against defendant, Mercedes-Benz USA, LLC. Specifically, defendant has infringed plaintiff's patent directed to a sheath structure for furniture.

THE PARTIES

1. Plaintiff, Francisco Thebaud ("Thebaud"), is an individual residing in Lincoln, Massachusetts.
2. Defendant, Mercedes-Benz USA, LLC ("Mercedes-Benz") is a Delaware Limited Liability Company having a principal place of business at 1 Mercedes Drive, Montvale, New Jersey.
3. Mercedes-Benz imports and sells automobiles and replacement parts throughout the United States, including the Commonwealth of Massachusetts. Mercedes-Benz is registered to do business and a regularly conducts business in the Commonwealth of Massachusetts.

JURISDICTION AN VENUE

4. This action arises under the patent laws of the United States, including 35 U.S.C. §§ 271, 281, 283-285. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C.

§§1331 and 1338(a). Venue is proper in the Court pursuant to 28 U.S.C. §§1391(b), 1391(c) and/or 1400(b).

COUNT I – PATENT INFRINGEMENT

5. Plaintiff incorporates herein paragraphs 1-4, as set forth above.

6. U.S. Patent No. 4,835,029 (“the ‘029 patent”), entitled Sheath Structure For Furniture, Envelopes, Paneling, and the Like, issued May 30, 1989, to Thebaud and his father, Sacha Thebaud, now deceased, as joint inventors. A true and correct copy of the ‘029 patent is attached hereto as Exhibit A.

7. Mercedes-Benz has imported, sold, and offered to sell various automobiles known as the “S-Class sedans” throughout the United States. The headrests on the seats of the S-Class sedans infringe one or more claims of the ‘029 patent. Mercedes-Benz further has imported, sold, and offered to sell replacement headrests for use in the S-Class sedans throughout the United States. These replacement headrests also infringe one or more claims of the ‘029 patent.

7. Upon information and believe, Mercedes-Benz infringement of the ‘029 patent has been and continues to be willful and deliberate.

8. As a consequence of Mercedes-Benz’s infringing acts, Thebaud has been injured and suffered damages for which he is entitled to relief under 35 U.S.C. §§284 and 289.

PRAYER FOR RELIEF

WHEREFORE, Thebaud prays for entry of a judgment from this Court:

- a. Declaring that Mercedes-Benz has infringed the ‘029 patent;
- b. Declaring that Mercedes-Benz has willfully infringed the ‘029 patent;
- c. Awarding Thebaud a reasonable royalty as damages for the infringement of the ‘029 patent by Mercedes-Benz;

- d. Awarding Thebaud three times the determined damages;
- e. Declaring this case to exceptional within the meaning of 35 U.S.C. §285 and award Thebaud his attorneys fees in connection with this action;
- f. Awarding Thebaud his costs of suit; and
- g. Granting Thebaud such other and further relief as this Court deems to be just and proper.

JURY DEMAND

Plaintiff hereby demands trial by jury for all matters triable to a jury.

Respectfully submitted,

By his attorneys,



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Dated: July 10, 2006