

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

CEQUENT PERFORMANCE  
PRODUCTS, INC.,

Plaintiff,

v.

WYERS PRODUCTS GROUP, INC. et al., Demand For Jury Trial

Defendants.

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Case No. 2:13-cv-10065-AJT-PJK

Judge Arthur J. Tarnow

Magistrate Judge Paul J. Komives

**First Amended Complaint**

For its amended complaint against defendants Wyers Products Group, Inc. (“Products Group”) and Philip W. Wyers (“Mr. Wyers”), plaintiff Cequent Performance Products, Inc. (“Cequent”) states:

**Summary Of Case**

1. This is an action for damages and injunctive relief to remedy the infringement by Products Group and Mr. Wyers (collectively, the “Defendants”) of U.S. Patent No. 6,722,686 (“the ‘686 patent”), which is assigned to and owned by Cequent. The ‘686 patent is directed to a coupler lock that closes around the socket of an unhitched trailer hitch coupler to prevent theft. A copy of the ‘686 patent is attached as **Exhibit A**.

**The Parties**

2. Cequent is a Delaware corporation with a principal place of business in Michigan.

3. Products Group is a Colorado corporation with a principal place of business in Colorado.

4. Mr. Wyers is an individual who resides in Colorado.

### **Jurisdiction And Venue**

5. This Court has subject matter jurisdiction over Cequent's patent infringement claim under 28 U.S.C. § 1331 and § 1338 because it arises under federal law and under 28 U.S.C. § 1332 because the parties are diverse.

6. This Court has specific personal jurisdiction over Products Group on various grounds, including (without limitation) because it has accused Michigan-based Cequent of infringing U.S. Patent Nos. 6,672,115 ("the '115 patent") and 7,121,121 ("the '121 patent"); it has derived benefit from the sale of products allegedly covered by the '115 and '121 patents throughout the U.S. and, upon information and belief, in Michigan; it and Mr. Wyers have worked together to try and exclude others from selling products allegedly covered by the '115 and '121 patents in the United States, including in Michigan; its infringement of the '686 patent has caused tortious harm to Cequent in Michigan; and it offers to sell products in Michigan that infringe the '686 patent and, upon information and belief, has actually sold infringing products in Michigan.

7. This Court also has specific personal jurisdiction over Mr. Wyers on various grounds, including (without limitation) because he has accused Michigan-based Cequent of infringing the '115 and '121 patents; he has derived personal benefit from the sale of products allegedly covered by the '115 and '121 patents

throughout the U.S. and, upon information and belief, in Michigan; he and Products Group have worked together to try and exclude others from selling products allegedly covered by the '115 and '121 patents in the United States, including in Michigan; his infringement of the '686 patent has caused tortious harm to Cequent in Michigan; and because, upon information and belief, he has personally directed Products Group to offer for sale, ship, and sell products that infringe the '686 patent in Michigan, and Mr. Wyers has personally profited by having Products Group do so.

8. This Court further has general personal jurisdiction over Defendants because, upon information and belief, Mr. Wyers and his Products Group business have regularly solicited business in Michigan, engaged in a persistent course of conducting business in Michigan, and derived substantial revenue from goods sold in Michigan.

9. Venue is proper under 28 U.S.C. § 1391 because the Defendants are each subject to personal jurisdiction in this district.

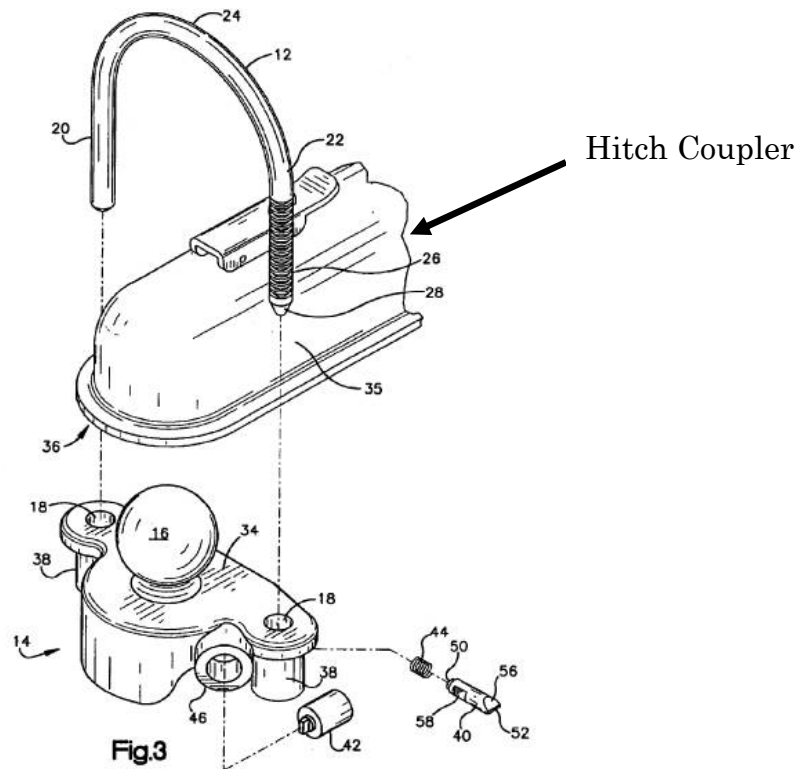
### **Relevant Facts**

#### **I. The '686 Patent**

10. Since around 1950, Cequent and its predecessors have continually designed, produced, manufactured, and marketed a wide array of towing and trailer hitch products and accessories for trailer equipment manufacturers, wholesaler-distributors, and retail markets.

11. On April 20, 2004, the U.S. Patent and Trademark Office issued the '686 patent.

12. The '686 patent claims an innovative coupler lock that closes around the socket of an unhitched trailer hitch coupler, as shown in Figure 3 of the patent:



13. As the '686 patent explains, the lock blocks a would-be thief from engaging his vehicle's hitch ball with the coupler and towing the trailer away.

14. By assignment from the inventor, Cequent has owned the '686 patent since it issued and still owns it today.

15. Cequent sells a universal coupler lock that is a commercial embodiment of the '686 patent.

16. Cequent marks its universal coupler lock with the number of the '686 patent in accordance with the patent marking statute, 35 U.S.C. § 287(a).

## **II. Defendants' Infringement Of The '686 Patent**

17. Mr. Wyers is the founder, owner, President, and decision-maker of Products Group.

18. In accordance with Mr. Wyers' directions, Products Group is making or importing, selling, and offering to sell coupler locks in the United States that are covered by one or more claims of the '686 patent, including, without limitation, Trimax model nos. UMAX50 and UMAX100, (collectively, the "Accused Products").

19. Prior to filing this lawsuit, Cequent notified Defendants that they were infringing the '686 patent by selling and offering to sell the Accused Products.

20. Products Group sells and offers to sell the Accused Products throughout the United States, including in Michigan, in various ways, including (without limitation) through its online store at [www.trimaxlocks.com](http://www.trimaxlocks.com), through online retailers (such as Amazon.com), through dealers around the United States, and (upon information and belief) through brick-and-mortar retailers.

### **Count One**

#### *Infringement Of The '686 Patent*

21. Cequent incorporates by reference all allegations in all preceding paragraphs of this complaint as if fully rewritten herein.

22. Each of the Accused Products is covered by one or more claims of the '686 patent, under any reasonable construction of the patent's claim terms.

23. Products Group has directly infringed, and continues to directly infringe, the '686 patent by making, importing, using, offering for sale, and/or selling the Accused Products in the United States.

24. As demonstrated by its product packaging (a true copy of which is attached as **Exhibit B**) and its online store advertisements for the Accused Products (a true copy of which is attached as **Exhibit C**), Products Group markets its Accused Products for one use: as a lock for unhitched trailer couplers.

25. Any use of the Accused Products as a lock for unhitched trailer couplers is an act of direct infringement of the '686 patent.

26. Because the sole intended consumer use of the Accused Products is an infringing use, the Accused Products have no substantial non-infringing uses.

27. Products Group has induced infringement of the '686 patent because, with knowledge of the '686 patent, it induced end users of the Accused Products to use them to lock unhitched trailers couplers—a use that infringes the '686 patent.

28. Products Group has contributed to infringement of the '686 patent by selling the Accused Products, which have no substantial use other than the infringing use as a lock for unhitched trailer couplers.

29. Upon information and belief, Mr. Wyers controls the day-to-day operations of Products Group, and he makes all of the management decisions for the company.

30. Upon information and belief, Mr. Wyers is the individual within Products Group most responsible for, and most involved in, the design, manufacture, marketing, and sales of the Accused Products.

31. Upon information and belief, Mr. Wyers created and approved of the final designs of the Accused Products, and he made the final decision that Products Group would sell the Accused Products and continue to sell the Accused Products after receiving Cequent's notice that such sales infringed the '686 patent.

32. Upon information and belief, Mr. Wyers is the sole or majority owner of Products Group, and thus benefits most from Products Group's infringing sales of the Accused Products.

33. Mr. Wyers is personally liable for direct and indirect infringement of the '686 patent because, upon information and belief, he personally authorized, participated in, directed, approved, benefited from, and is responsible for the infringing conduct complained of herein.

34. In addition, Mr. Wyers has actively induced infringement of the '686 patent by directing Products Group to make, import, use, sell, and/or offer to sell the Accused Products with knowledge that such actions would infringe the '686 patent.

35. Defendants' infringement of the '686 patent was, and continues to be, willful and deliberate and both are almost certain to continue their infringing activities unless restrained by this Court.

36. Defendants' infringement of the '686 patent is exceptional under 35 U.S.C. § 285.

37. Defendants' activities were done with an intent to, and in fact did allow them to, derive benefit from unauthorized use of technology covered by Cequent's '686 patent.

38. Defendants have enriched themselves, and will continue to enrich themselves, by their infringing activities.

39. Cequent has been damaged by Defendants' infringing activities, and it will continue to be irreparably injured unless the infringing activities are enjoined by this Court.

#### **Prayer for Relief**

WHEREFORE, Cequent prays for judgment against Defendants as follows:

(A) A finding that Defendants have each directly infringed one or more claims of the '686 patent under 35 U.S.C. § 271(a).

(B) A finding that Defendants have each induced infringement of one or more claims of the '686 patent under 35 U.S.C. § 271(b).

(C) A finding that Defendants have each contributed to the infringement of one or more claims of the '686 patent under 35 U.S.C. § 271(c).

(D) Preliminary and permanent injunctive relief enjoining Mr. Wyers, Products Group, and its officers, directors, managers, employees, affiliates, agents, representatives, parents, subsidiaries, successors, assigns, those in privity with them, and all others aiding, abetting, or acting in concert or active participation



therewith, from: (1) making, using, selling, offering to sell, or importing into the U.S. any device covered by the '686 patent, including Trimax model nos. UMAX50 and UMAX100; or (2) otherwise directly or indirectly infringing the '686 patent.

(E) Compensatory damages under 35 U.S.C. § 284.

(F) Treble damages under 35 U.S.C. § 284.

(G) An order that Defendants account to Cequent for all sales, revenues, and profits derived from their infringing activities and that three times those profits be disgorged and paid to Cequent under 35 U.S.C. § 284.

(H) Attorneys' fees under 35 U.S.C. § 285.

(I) Pre-judgment and post-judgment interest.

(J) Costs of the action.

(K) Such other and further relief as allowed at law or in equity that the Court deems to be appropriate.

Dated: October 24, 2013

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**Jury Demand**

Plaintiff Cequent Performance Products, Inc. hereby demands a jury trial for all issues so triable.

s/ David B. Cupar  
*Counsel for*  
*Cequent Performance Products, Inc.*