

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

WARRIOR SPORTS, INC.,
a Michigan corporation,

Plaintiff,

v.

BAUER HOCKEY, INC.,
a Vermont corporation,

Defendant.

Case No. 4:12-cv-14202-VAR-DRG

Hon. Gershwin A. Drain

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FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Warrior Sports, Inc. amends its Complaint against Defendant Bauer Hockey, Inc. as follows:

The Parties

1. Plaintiff Warrior Sports, Inc. (“Warrior”) is a Michigan corporation having its principal place of business in Warren, Michigan. Warrior is a sports equipment manufacturer that manufactures and sells, among other things, protective sports gloves.

2. Upon information and belief, Defendant Bauer Hockey, Inc. (“Bauer”) is a Vermont corporation, with a principal place of business at 100 Domain Drive, Exeter, New Hampshire, 03833. Bauer is also a sports equipment manufacturer who manufactures and sells, among other things, protective sports gloves. Bauer manufactures protective sports gloves under the “Bauer” and “Mission” brand.

Jurisdiction and Venue

3. This is an action for patent infringement under the Patent Act, 35 U.S.C. § 101 *et seq.*

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a), as this action arises under the patent laws of the United States.

5. Upon information and belief, Bauer makes, sells, and offers for sale protective sports gloves throughout the United States and has systematic and continuous dealings within this District.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400.

Allegations and Claim for Relief

7. For many years, Warrior has continuously engaged in the development, manufacture, and sale of a wide variety of athletic products. As a result, Warrior quickly bypassed other manufacturers and has become one of the premiere sources of sports equipment. The athletic products at issue in this litigation are protective sports gloves.

8. Warrior has taken steps over the years to protect its innovative sports equipment, including protective sports gloves. In particular, Warrior is and has been the sole owner by assignment of all right, title, and interest to each of the four United States Patents identified below (collectively referred to as the “Warrior Patents”):

- a. United States Patent 6,550,069 (“the ‘069 Patent”), titled “Padded Sports Glove Having Improved Flexibility and Breathability,” issued April 22, 2003.
(Exhibit 1.)
- b. United States Patent 6,813,780 (“the ‘780 Patent”), titled “Padded Sports Glove Having Improved Flexibility and Breathability,” issued November 9, 2004.
(Exhibit 2.)
- c. United States Patent 7,117,540 (“the ‘540 Patent”), titled “Padded Sports Glove Having Improved Flexibility and Breathability,” issued October 10, 2006.
(Exhibit 3.)
- d. United States Patent 7,318,241 (“the ‘241 Patent”), titled “Padded Sports Glove Having Improved Flexibility and Breathability,” issued January 15, 2008.
(Exhibit 4.)

9. At all times relevant to this litigation, Warrior marked each product embodying the patented inventions with the appropriate patent markings, thus providing notice of the Warrior Patents.

10. Warrior is entitled to sue for past, present, and future infringement of each of the Warrior Patents.

11. Bauer is in the business of manufacturing or having manufactured, offering to sell, selling or importing into the United States protective sports gloves, in competition with

major manufacturers, including Warrior. Bauer is manufacturing or having manufactured, offering to sell, selling or importing into the United States protective sports gloves under the brand names of “Bauer” and “Mission.”

12. Bauer has, without authority or license from Warrior, made, used, offered to sell, sold or imported into the United States protective sports gloves that infringe the Warrior Patents. The infringing protective sports gloves include, but are not limited to, the Bauer Vapor X:60 Senior, Bauer Vapor X:60 Junior, Bauer Vapor X:40 Senior, Bauer Vapor X:40 Junior, Mission Axiom T8 Junior, Mission Axiom T8 Senior, Mission Axiom T9 Junior, Mission Axiom T9 Senior, Mission Inhaler AC1 and Mission Inhaler AC2 (collectively, the “Bauer Gloves”).

13. Moreover, Bauer actively and purposefully encourages infringement of the Warrior Patents through at least its marketing and/or sales activities directed at its third party customers.

14. Specifically, but without limitation, Bauer’s website, www.Bauer.com, list numerous authorized “dealers” that market, offer to sell, and sell Bauer’s products. This includes at least one Authorized Dealer, Perani’s Hockey World (www.hockeyworld.com), who sells more than one of the Bauer Gloves at issue in this case. (**Exhibit 5.**)

15. Upon information and belief, Bauer expressly authorized and continues to authorize the Authorized Dealer, and others, to sell its products, including but not limited to the Bauer Gloves at issue in this case, thereby actively and purposefully encouraging the Authorized Dealer to infringe the Warrior Patents.

16. Bauer had and continues to have specific intent to induce infringement of the Warrior Patents at least by marketing and selling its infringing products with the intent that the products be bought and used by its customers, including without limitation the Authorized

Dealer and individual consumers, while knowing that the customer's acts constitute infringement.

COUNT I - Infringement of the '069 Patent by Bauer

17. Warrior incorporates by reference all preceding paragraphs.

18. Bauer has been and still is making, using, offering to sell, selling or importing into the United States protective sports gloves, including, but not limited to, the Bauer Gloves, that infringe the '069 Patent in violation of 35 U.S.C. § 271(a).

19. Bauer has been and still is actively inducing others to infringe the '069 Patent, including but not limited to the Authorized Dealer, while knowing that its use of the product constitutes infringement, in violation of 35 U.S.C. § 271(b).

20. Bauer's continued infringement of the '069 Patent has damaged and will continue to damage Warrior.

21. By reason of Bauer's infringement of the '069 Patent, Warrior has been irreparably harmed, and unless and until Bauer is enjoined by this Court, Warrior will continue to suffer irreparable damage and injury for which it has no adequate remedy at law.

COUNT II - Infringement of the '780 Patent by Bauer

22. Warrior incorporates by reference all preceding paragraphs.

23. Bauer has been and still is making, using, offering to sell, selling or importing into the United States protective sports gloves, including, but not limited to, the Bauer Gloves, that infringe the '780 Patent in violation of 35 U.S.C. § 271(a).

24. Bauer has been and still is actively inducing others to infringe the '780 Patent, including but not limited to the Authorized Dealer, while knowing that its use of the product constitutes infringement, in violation of 35 U.S.C. § 271(b).

25. Bauer's continued infringement of the '780 Patent has damaged and will continue to damage Warrior.

26. By reason of Bauer's infringement of the '780 Patent, Warrior has been irreparably harmed, and unless and until Bauer is enjoined by this Court, Warrior will continue to suffer irreparable damage and injury for which it has no adequate remedy at law.

COUNT III - Infringement of the '540 Patent by Bauer

27. Warrior incorporates by reference all preceding paragraphs.

28. Bauer has been and still is making, using, offering to sell, selling or importing into the United States protective sports gloves, including, but not limited to, the Bauer Gloves, that infringe the '540 Patent in violation of 35 U.S.C. § 271(a).

29. Bauer has been and still is actively inducing others to infringe the '540 Patent, including but not limited to the Authorized Dealer, while knowing that its use of the product constitutes infringement, in violation of 35 U.S.C. § 271(b).

30. Bauer's continued infringement of the '540 Patent has damaged and will continue to damage Warrior.

31. By reason of Bauer's infringement of the '540 Patent, Warrior has been irreparably harmed, and unless and until Bauer is enjoined by this Court, Warrior will continue to suffer irreparable damage and injury for which it has no adequate remedy at law.

COUNT IV - Infringement of the '241 Patent by Bauer

32. Warrior incorporates by reference all preceding paragraphs.

33. Bauer has been and still is making, using, offering to sell, selling or importing into the United States protective sports gloves, including, but not limited to, the Bauer Gloves, that infringe the '241 Patent in violation of 35 U.S.C. § 271(a).

34. Bauer has been and still is actively inducing others to infringe the '241 Patent, including but not limited to the Authorized Dealers, while knowing that the others' use of the product constitutes infringement, in violation of 35 U.S.C. § 271(b).

35. Bauer's continued infringement of the '241 Patent has damaged and will continue to damage Warrior.

36. By reason of Bauer's infringement of the '241 Patent, Warrior has been irreparably harmed, and unless and until Bauer is enjoined by this Court, Warrior will continue to suffer irreparable damage and injury for which it has no adequate remedy at law.

WHEREFORE, Warrior respectfully requests the following relief:

A. Judgment that Bauer has infringed and actively induced others to infringe the Warrior Patents;

B. A permanent injunction enjoining Bauer, its officers, employees, agents, and all others acting in concert with it or participating with it from further infringement and/or inducement of infringement of the Warrior Patents;

C. An award of damages adequate to compensate Warrior for Bauer's infringement, but in no event less than a reasonable royalty under 35 U.S.C. § 284;

D. Enter an order awarding Warrior interest on the damages awarded and its costs pursuant to 35 U.S.C. § 284;

E. Enter an order finding that this is an exceptional case and award Warrior its reasonable costs, expenses, and reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and,

F. Award such other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Warrior demands a trial by jury.

Respectfully submitted,

Dated: April 4, 2013

/s/ Amanda M. Fielder

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