

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

TRAXXAS LP,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 2:14-cv-00081-JRG
v.	§	
	§	JURY TRIAL DEMANDED
HOBBY SHACK d/b/a	§	
GLOBAL HOBBY DISTRIBUTORS,	§	
	§	
Defendant.	§	

FIRST AMENDED COMPLAINT

Plaintiff Traxxas LP for its First Amended Complaint against Defendant Hobby Shack d/b/a Global Hobby Distributors, hereby allege as follows:

1. Plaintiff, Traxxas LP (hereinafter “Traxxas”) is a corporation organized and existing under the laws of the state of Texas having its principal place of business at 6250 Traxxas Way, McKinney, Texas 75070.
2. Upon information and belief, Defendant Hobby Shack (hereinafter “Hobby Shack”) is a corporation organized and existing under the laws of the state of California having its principal place of business at 18480 Bandilier Circle, Fountain Valley, CA 92708.
3. This action arises under the patent laws of the United States, Title 35 of the United States Code and particularly 35 U.S.C. § 271.
4. This Court has jurisdiction over the claims Traxxas is asserting under 28 U.S.C. § 1338 and venue is proper under 28 U.S.C. § 1391(b).

5. On November 20, 2012, United States Patent No. 8,315,040 (hereinafter '040 patent) was duly and legally issued to Plaintiff Traxxas for a protective enclosure invention. A copy of the '040 patent is annexed hereto as Exhibit A.

6. Plaintiff Traxxas owned the '040 patent throughout the period of Defendant Hobby Shack's infringing acts and still owns the patent.

7. Defendant Hobby Shack does business under the name Global Hobby Distributors at the website www.globalhobby.com.

8. Defendant Hobby Shack imports, offers for sale, sells, and uses protective enclosures which protect radio control receivers. Some of these protective enclosures are part of radio control model trucks identified as DHK 8135 Hunter SCT and DHK 8331-A Hunter BL SCT (hereinafter referred to as the "Hunter Trucks"). The protective enclosures embody or have embodied the patented invention.

9. On January 13, 2014, Traxxas sent Hobby Shack a letter (the "Traxxas Letter").

10. Attached as Exhibit B is a photograph accurately depicting the protective enclosures contained in Hunter Trucks imported, offered for sale, sold, and used by Hobby Shack as of January 14, 2014. This photograph was attached to the Traxxas Letter. The model of protective enclosure depicted in Exhibit B is hereinafter referred to as the "Protective Enclosure".

11. The Traxxas Letter asserted, among other things, that Hobby Shack was infringing the '040 patent by importing, offering to sell, and selling the Protective Enclosure and Hunter Trucks containing the Protective Enclosure.

12. The Traxxas Letter demanded, amongst other things, that Hobby Shack immediately stop importing, offering to sell, selling, and using the Protective Enclosure and Hunter Trucks containing the Protective Enclosure.

13. A copy of the '040 patent was attached to the Traxxas Letter.

14. On and prior to January 14, 2014, Hobby Shack was importing into the United States the Protective Enclosure and Hunter Trucks containing the Protective Enclosure.

15. On and prior to January 14, 2014, Hobby Shack was offering to sell within the United States the Protective Enclosure and Hunter Trucks containing the Protective Enclosure.

16. On and prior to January 14, 2014, Hobby Shack was selling within the United States the Protective Enclosure and Hunter Trucks containing the Protective Enclosure.

17. On and prior to January 14, 2014, Hobby Shack was using within the United States the Protective Enclosure and Hunter Trucks containing the Protective Enclosure.

18. On or about January 14, 2014, Hobby Shack received the Traxxas Letter.

19. On or about January 14, 2014, Hobby Shack received a copy of the '040 patent.

20. The Traxxas Letter did not offer Hobby Shack a license under the '040 patent.

21. Traxxas has never offered to grant Hobby Shack a license under the '040 patent.

22. After receiving the Traxxas Letter, Hobby Shack imported into the United States the Protective Enclosure and Hunter Trucks containing the Protective Enclosure. This importing was done without Hobby Shack determining that such importations were unlikely to infringe the '040 patent.

23. After receiving the Traxxas Letter, Hobby Shack offered for sale in the United States the Protective Enclosure and Hunter Trucks containing the Protective Enclosure. This

offering for sale was done without Hobby Shack determining that such offering for sale was unlikely to infringe the '040 patent.

24. After receiving the Traxxas Letter, Hobby Shack sold in the United States the Protective Enclosure and Hunter Trucks containing the Protective Enclosure. This selling was done without Hobby Shack determining that such sales were unlikely to infringe the '040 patent.

25. After receiving the Traxxas Letter, Hobby Shack used in the United States the Protective Enclosure and Hunter Trucks containing the Protective Enclosure. This using was done without Hobby Shack determining that such sales were unlikely to infringe the '040 patent.

26. Defendant Hobby Shack has infringed the '040 patent by importing, offering for sale, selling, and using Protective Enclosures that embody the patented invention. Hobby Shack imported, offered for sale, sold, and used the Protective Enclosures both alone and as part of Hunter Trucks.

27. Upon information and belief, Defendant Hobby Shack has sold Hunter Trucks containing the Protective Enclosure to customers located in this judicial district.

28. At least after receiving the Traxxas Letter, Defendant Hobby Shack has willfully infringed the '040 patent by importing, offering for sale, selling, and using Protective Enclosures that embody the patented invention, both alone and as part of Hunter Trucks. The willfulness of the infringement makes this case exceptional under the United States patent laws.

29. Plaintiff Traxxas has complied with the statutory requirement of placing a notice of the '040 patent on all protective enclosures it manufactures and sells and has given Defendant Hobby Shack written notice of the infringement.

JURY DEMAND

30. Plaintiff Traxxas hereby demands trial by jury of all issues so triable.

RELIEF

31. As a result of Hobby Shack's acts, Traxxas has been damaged. Therefore, Traxxas demands:

- (a) a preliminary and thereafter a permanent injunction against the continuing infringement be ordered pursuant to 35 U.S.C. § 283;
- (b) an accounting for damages pursuant to 35 U.S.C. § 284, including treble damages;
- (c) interest and costs;
- (d) an award of its attorney fees pursuant to 35 U.S.C. § 285; and
- (e) such other and further relief as is just.

Date: June 23, 2014

Respectfully Submitted,

By: /s/ William E. Davis, III
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**ATTORNEYS FOR PLAINTIFF
TRAXXAS LP**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this response was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(V). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on this the 23rd day June, 2014.

/s/ William E. Davis, III
William E. Davis, III