

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TRAXXAS LP	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 2:14-cv-945
v.	§	
	§	
HOBBY PRODUCTS INTERNATIONAL,	§	JURY TRIAL DEMANDED
INC. d/b/a	§	
HPI RACING	§	
	§	
Defendant.	§	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Traxxas LP (“Plaintiff” or “Traxxas”) files this Original Complaint for Patent Infringement (“Complaint”) seeking injunctive and compensatory relief against Defendant Hobby Products International, Inc. d/b/a HPI Racing (“HPI” or “Defendant”) for infringement of U.S. Patent No. 8,315,040 (the “‘040 patent”). In support of its Complaint, Traxxas shows as follows:

PARTIES

1. Traxxas, LP is a Texas-based company that designs, develops and sells hobby-class remote-controlled vehicles.

2. Upon information and belief, HPI is a foreign corporation organized and existing under the laws of the State of California that does business in the State of Texas. Accordingly, HPI may be served with process by serving its registered agents, Tatsuro Watanabe and/or Shihomi Tezuka, at HPI’s business address, having its principal place of business at 70 Icon Street, Foothill Ranch, California 92610, or wherever else they may be found, with citation attached, or by certified mail, return receipt requested.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. § 101 *et seq.* This Court has original and exclusive jurisdiction over the subject matter of the Complaint pursuant to 28 U.S.C. §§1331 and 1338(a).

4. This Court has personal jurisdiction over HPI in that it has committed acts within Texas and the Eastern District of Texas giving rise to this action. As set forth in this Complaint, HPI has purposely transacted business involving its accused products in this judicial district by providing products for sale through online and hobby store distributors in the State of Texas and Eastern District of Texas that infringe the '040 patent.

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b), because Defendant has committed acts within this judicial district giving rise to this action and does business in this district.

FACTUAL ALLEGATIONS

6. The '040 patent entitled "Protective Enclosure for Model Vehicle" was duly and legally issued by the United States Patent and Trademark Office on November 20, 2012, after full and fair examination. A copy of the '040 patent is attached hereto as Exhibit "A."

7. The '040 patent provides for a protective enclosure that may be configured for use in a remotely controllable model vehicle to protect a control module.

8. Traxxas has owned the '040 patent throughout the period of HPI's infringing acts and still owns the patent. Traxxas is the sole owner of all rights, title, and interest in the '040 patent, and possesses all rights of recovery, including the right to recover all past damages under the '040 patent.

9. On information and belief, HPI manufactures radio control cars, trucks, and monster trucks. It offers gas off-road, nitro off-road, electric off-road, nitro on-road, electric on-road, and precision diecast cars and trucks; and various parts and accessories, such as bodies, tires, wheels, motors and engines, option parts, gear parts, and various other parts. HPI also provides electric and nitro powered car and truck kits. HPI offers for sale and sells its products through a network of dealers in the United States.

10. Defendant HPI does business at the website www.hpiracing.com and its products can be purchased at hobby stores within the Eastern District of Texas.

11. HPI directly ships, distributes, offers for sale, sells, and advertises its infringing products and/or services in the United States, including within the State of Texas and the Eastern District of Texas.

12. Specifically, HPI directly ships, distributes, offers for sale, sells, and advertises protective enclosures, including those marketed as “waterproof” enclosures, that are identical to or substantially equivalent to the claims set forth in the ‘040 patent.

13. Upon information and belief, HPI has sold the infringing protective enclosures to customers located in the Eastern District of Texas.

CAUSES OF ACTION
COUNT I – INFRINGEMENT OF PATENT NO. 8,315,040

14. Traxxas realleges and incorporates by reference paragraphs 1-13 as if fully set forth herein.

15. Defendant HPI has infringed, literally and/or under the doctrine of equivalents, and continues to directly infringe one or more claims of the ‘040 patent by, among other things, making, manufacturing, importing, offering for sale, selling, and using protective enclosures that embody the patented invention in the ‘040 patent in violation of 35 U.S.C. § 271.

16. HPI manufactures and sells remote control model vehicles, which include protective enclosures to protect the radio control receivers in such vehicles. Some of the protective enclosures manufactured and/or sold by HPI for use in its remote controllable vehicles infringe the '040 patent, either literally or by the doctrine of equivalents, are included in the following HPI products:

- a. Sprint 2 Flux;
- b. Blitz;
- c. Firestorm;
- d. Bullet Flux;
- e. Trophy Nitro; and
- f. Bullet Nitro.

17. Plaintiff's remedy by civil action for infringement is provided by 35 U.S.C. § 281.

18. Prior to the filing of this action, Plaintiff complied with 35 U.S.C. § 287 by placing a notice of the '040 patent on products it sells.

19. Traxxas has been damaged as a result of HPI's infringing conduct. HPI is, therefore, liable to Traxxas in an amount that adequately compensates it for HPI's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

20. Defendant's infringement of Patent '040 is willful and deliberate, making this case exceptional pursuant to 35 U.S.C. § 285 and justifying treble damages by 35 U.S.C. § 284.

21. If it is determined that this case presents exceptional circumstances within the meaning of 35 U.S.C. § 285, Traxxas requests the Court to award it all reasonable attorneys' fees and costs incurred in this litigation and pre-judgment and post-judgment interest pursuant to 35 U.S.C. §§ 284 and 285.

JURY DEMAND

22. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Traxxas respectfully requests that this Court enter a judgment in its favor and against Defendant HPI as follows:

1. A permanent injunction against HPI, enjoining it, its respective directors, officers, agents, employees, successors, subsidiaries, assigns, and all persons acting in privity, concert, or participation with HPI, from making, using, selling, or offering for sale in the United States, or importing into the United States, any and all products and/or services embodying the patented inventions claimed in the '040 patent;

2. Damages for infringement of Traxxas' '040 patent pursuant to 35 U.S.C. §§ 281 and 284;

3. Enhanced damages for willful infringement, pursuant to 35 U.S.C. § 284;

4. Pre-judgment and post-judgment interest at the highest legal maximum rate;

5. Costs, expenses, and fees, including reasonable and necessary attorneys' fees, pursuant to 35 U.S.C. § 285;

6. Payment of costs of suit herein incurred pursuant to, inter alia, 35 U.S.C. § 297(b)(1);

7. Other relief to which Plaintiff Traxxas may be entitled at law or in equity, whether pled or unpled.

Dated: October 10, 2014

Respectfully Submitted,

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