

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

LIPPERT COMPONENTS)	
MANUFACTURING, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 3:13 CV 697
)	
AL-KO KOBER, LLC,)	JURY TRIAL DEMANDED
)	
Defendant.)	

THIRD AMENDED COMPLAINT

Plaintiff, LIPPERT COMPONENTS MANUFACTURING, INC. (“Lippert”) for its Third Amended Complaint against Defendant, AL-KO Kober, LLC. (“AL-KO”), alleges and states:

PARTIES, JURISDICTION AND VENUE

1. Lippert is a Delaware corporation, having a principal place of business in Goshen, Elkhart County, Indiana.
2. AL-KO is an Indiana limited liability company having a principal place of business in Elkhart, Indiana.
3. This is a complaint for patent infringement pursuant to 35 U.S.C. § 271 *et seq.* This court has subject matter jurisdiction over Lippert’s claims pursuant to 28 U.S.C. § 1331 (federal question) and 1338 (patent).
4. The Defendant is located in this district, and is doing business within this judicial district, subjecting it to jurisdiction within the judicial district and making venue proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400.

LIPPERT'S PATENTS

5. On August 7, 2012, United States Patent No. 8,235,455 (“the ‘455 Patent”) entitled “Retractable Room Actuation Assembly for Recreational Vehicle Having Engagement Means for Maintaining Constant Distance Between Drive Members and Engagement Members,” for use in extending/retracting recreational vehicle slide-out compartments, was duly and legally issued. A true and correct copy is attached hereto as Exhibit A.

6. Lippert is the assignee of all right, title, and interest in and to the ‘455 Patent.

7. On August 14, 2012, United States Patent No. 8,240,744 (“the ‘744 Patent”) entitled “Retractable Room Actuation Assembly for Recreational Vehicle Having Engagement Mechanism for Maintaining Constant Distance Between Drive Members and Engagement Members,” for use in extending/retracting recreational vehicle slide-out compartments, was duly and legally issued. A true and correct copy is attached hereto as Exhibit B.

8. Lippert is the assignee of all right, title, and interest in and to the ‘744 Patent.

9. On November 5, 2013, United States Patent No. 8,573,666 (“the ‘666 Patent”) entitled “Retractable Room Actuation Assembly for Recreational Vehicle,” for use in extending/retracting recreational vehicle slide-out compartments, was duly and legally issued. A true and correct copy is attached hereto as Exhibit C.

10. Lippert is the assignee of all right, title, and interest in and to the ‘666 Patent.

11. On June 12, 2007, United States Patent No. 7,229,123 (“the ‘123 Patent”) entitled “Camper Slide-Out System,” for use in slide-out systems for recreational vehicles, was duly and legally issued. A true and correct copy is attached hereto as Exhibit D.

12. Lippert is the assignee of all right, title, and interest in and to the ‘123 Patent.

13. On information and belief, Defendant has made, used, offered for sale and/or sold its retractable room actuation assembly for use in extending/retracting recreational vehicle slide-out compartments in this judicial district. Attached hereto as Exhibit E are photographs of portions of Defendant's assemblies. Lippert notified Defendant of Lippert's '455 Patent and '744 Patent and Defendant's infringement by letter dated June 28, 2013 and received by AL-KO on July 1, 2013. Lippert notified Defendant of the '666 Patent, and Lippert's assertion in this case, on November 12, 2013.

14. AL-KO has had notice of the '123 Patent at least since December 2, 2013.

Count I

'455 PATENT INFRINGEMENT

15. Paragraphs 1-14 are incorporated herein by reference as if fully set forth.

16. Notwithstanding knowledge of the above Lippert patents and Lippert's prior notification, Defendant has been and still is infringing the '455 Patent by making, selling, using or offering to sell devices embodying the patented inventions, or inducing or contributing to the infringement by others of the '455 Patent, and will continue to do so unless enjoined by this Court.

17. Defendant, in contravention of its knowledge of Lippert's rights in the '455 Patent, has been, and still is, infringing at least claim 1 of Lippert's '455 Patent by making, selling, using, or offering to sell devices embodying the patented inventions, such as in Defendant's retractable room actuation assembly products.

18. Defendant, in contravention of its knowledge of Lippert's rights in the '455 Patent, is inducing and/or contributing to the infringement by others of the '455 Patent, including at least claim 1, by selling or offering to sell to third parties, with the intent to induce

infringement, devices embodying the patented inventions such as in Defendant's retractable room actuation assembly products of Exhibit E.

19. Defendant, in contravention of its knowledge of Lippert's rights in the '455 Patent, has induced and contributed to other's use of the claimed inventions of the '455 Patent, including at least Augusta RV, by selling to others and instructing others to use Defendant's retractable room actuation assembly products for manufacture of mobile living quarters having a retractable/expandable living space. Defendant's retractable room actuation assembly products have no substantial non-infringing uses, and are designed specifically for retractable room actuation for the recreational vehicle industry.

Count II

'744 PATENT INFRINGEMENT

20. Paragraphs 1-19 are incorporated herein by reference as if fully set forth.

21. Notwithstanding knowledge of the above Lippert patents and Lippert's prior notification, Defendant has been and still is infringing the '744 Patent by making, selling, using or offering to sell devices embodying the patented inventions, or inducing or contributing to the infringement by others of the '744 Patent, and will continue to do so unless enjoined by this Court.

22. Defendant, in contravention of its knowledge of Lippert's rights in the '744 Patent, has been, and still is, infringing at least claim 1 of Lippert's '744 Patent by making, selling, using, or offering to sell devices embodying the patented inventions, such as in Defendant's retractable room actuation assembly products.

23. Defendant, in contravention of its knowledge of Lippert's rights in the '744 Patent, is inducing and/or contributing to the infringement by others of the '744 Patent, including

at least claim 1, by selling or offering to sell to third parties, with the intent to induce infringement, devices embodying the patented inventions, such as in Defendant's retractable room actuation assembly products of Exhibit E.

24. Defendant, in contravention of its knowledge of Lippert's rights in the '744 Patent, has induced and contributed to other's use of the claimed inventions of the '744 Patent, including at least Augusta RV, by selling to others and instructing others to use Defendant's retractable room actuation assembly products for manufacture of mobile living quarters having a retractable/expandable living space. Defendant's retractable room actuation assembly products have no substantial non-infringing uses, and are designed specifically for retractable room actuation for the recreational vehicle industry.

Count III

'666 PATENT INFRINGEMENT

25. Paragraphs 1-24 are incorporated herein by reference as if fully set forth.

26. Notwithstanding knowledge of the above Lippert patents and Lippert's prior notification, Defendant has been and still is infringing the '666 Patent by making, selling, using or offering to sell devices embodying the patented inventions, or inducing or contributing to the infringement by others of the '666 Patent, and will continue to do so unless enjoined by this Court.

27. Defendant, in contravention of its knowledge of Lippert's rights in the '666 Patent, has been, and still is, infringing at least claim 1 of Lippert's '666 Patent by making, selling, using, or offering to sell devices embodying the patented inventions, such as in Defendant's retractable room actuation assembly products.

28. Defendant, in contravention of its knowledge of Lippert's rights in the '666 Patent, is inducing and/or contributing to the infringement by others of the '666 Patent, including at least claim 1, by selling or offering to sell to third parties, with the intent to induce infringement, devices embodying the patented inventions, such as in Defendant's retractable room actuation assembly products of Exhibit E.

29. Defendant, in contravention of its knowledge of Lippert's rights in the '666 Patent, has induced and contributed to other's use of the claimed inventions of the '666 Patent, including at least Augusta RV, by selling to others and instructing others to use Defendant's retractable room actuation assembly products for manufacture of mobile living quarters having a retractable/expandable living space. Defendant's retractable room actuation assembly products have no substantial non-infringing uses, and are designed specifically for retractable room actuation for the recreational vehicle industry.

Count IV

'123 PATENT INFRINGEMENT

30. Paragraphs 1-29 are incorporated herein by reference as if fully set forth.

31. Notwithstanding knowledge of the '123 Patent, Defendant has been and still is infringing the '123 Patent by making, selling, using or offering to sell devices embodying the patented invention, or inducing or contributing to the infringement by others of the '123 Patent, and will continue to do so unless enjoined by this Court.

32. Defendant, in contravention of its knowledge of the '123 Patent, has been, and still is, infringing at least claim 1 of the '123 Patent by making, selling, using, or offering to sell devices embodying the patented inventions, such as in Defendant's retractable room actuation assembly products.

33. Defendant, in contravention of its knowledge of the '123 Patent, is inducing and/or contributing to the infringement by others of the '123 Patent, including at least claim 1, by selling or offering to sell to third parties, with the intent to induce infringement, devices embodying the patented inventions, such as in Defendant's retractable room actuation assembly products of Exhibit E.

34. Defendant, in contravention of its knowledge of Lippert's rights in the '123 Patent, has induced and contributed to other's use of the claimed inventions of the '123 Patent, including at least Augusta RV, by selling to others and instructing others to use Defendant's retractable room actuation assembly products for manufacture of mobile living quarters having a retractable/expandable living space. Defendant's retractable room actuation assembly products have no substantial non-infringing uses, and are designed specifically for retractable room actuation for the recreational vehicle industry.

THE HARM TO LIPPERT

35. Paragraphs 1-34 are incorporated herein by reference as if fully set forth.

36. Defendant, by its infringing conduct, including its contributory infringement and its inducing infringement by others, has caused Lippert irreparable harm for which there is no adequate remedy at law.

37. Defendant has engaged in their conduct willfully and in complete disregard of, or with indifference to, Lippert's rights and interests.

38. Lippert has suffered damage as a result of defendant's infringement to date.

39. Defendant's actions render this an 'exceptional case' as that term is defined in 35 U.S.C. §285.

WHEREFORE, Lippert prays that this Court:

A. Preliminarily and permanently enjoin Defendant and its officers, agents, servants, employees and attorneys and those in active concert or participation with them, who receive actual notice of the Order, from importing, marketing, manufacturing, using, selling and/or offering for sale, or contributing to or inducing others to make, use, sell or offer for sale devices which infringe any of Lippert's '455 Patent, '666 Patent, '744 Patent, and/or '123 Patent.

B. Require Defendant to account for and pay over to Plaintiff all damages sustained by Plaintiff and all profits realized by Defendants by reason of their unlawful acts.

C. Award Lippert monetary damages adequate to compensate Lippert for past infringement consistent with 35 U.S.C. § 284, up to and including treble the amount of actual damages assessed, together with costs and prejudgment interest.

D. Award Lippert its reasonable attorneys' fees and costs pursuant to 35 U.S.C. § 285.

E. Order Defendant to provide notice to Defendant's customers of the accused systems and of Defendant's unlawful acts.

F. Grant and award any and all relief to Lippert deemed just and proper under these circumstances.

JURY DEMAND

Lippert demands a trial by jury on its claims.

Dated: October 15, 2014

/s/ Alice J. Springer
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CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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By /s/ Alice J. Springer