

**ABELMAN, FRAYNE & SCHWAB**

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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

SPORTCO, INC,

*Plaintiff,*

-v-

TRT TACTICAL, LLC

*Defendant.*

14 Civ. \_\_\_\_\_ (\_\_\_\_)

**Jury Trial Demanded**

**COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES  
FOR PATENT INFRINGEMENT (35 U.S.C. §§ 271 and 281)**

The plaintiff, Sportco, Inc. ("Sportco"), by its attorneys, Abelman, Frayne & Schwab, for its complaint against the defendant TRT Tactical, LLC ("Defendant") alleges as follows:

**NATURE OF THE CASE**

1. This is an action seeking injunctive relief and damages for patent infringement arising from violations of the Patent Act of the United States, more particularly 35 U.S.C. §§ 271 and 281.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1338 (patent, trademark and copyright).

3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400.

### **THE PARTIES**

4. Sportco is and was at all relevant times a corporation organized and existing under the laws of the State of New York, with a principal office at 5000 Veterans Memorial Highway, Holbrook, NY 11741.

5. Sportco is a manufacturer and distributor of various products and accessories used by competitive and tactical shooters, including magwells, magazine basepads and pistol grips.

6. Upon information and belief, the Defendant is and was at all relevant times a corporation organized under the laws of the State of New Hampshire with offices located at 3 Autumn Leaf Drive, Suite 2, Nashua, New Hampshire 03060.

7. Upon information and belief, Defendant distributes products used by competitive and tactical shooters, including magwells, magazine basepads and pistol grips within this judicial district.

### **FACTS COMMON TO ALL CAUSES OF ACTION**

8. Sportco is the owner of U.S. Patent No. 7,743,542 (“‘542 Patent”), for a “Magazine Entrance Guide”. A copy of the ‘542 Patent is attached hereto as Exhibit 1.

9. Defendant has undertaken to unlawfully compete with Sportco by infringing its ‘542 Patent.

10. By this action Sportco seeks to enjoin this deliberate scheme to infringe its patent.

11. Sportco further seeks monetary damages for the injury incurred as a result of the Defendant's activities.

**The '542 Patent**

12. The '542 Patent issued on June 29, 2010.

13. The '542 Patent was duly and legally assigned to Sportco, its current owner.

14. The '542 Patent relates to an assembly for facilitating the insertion of an ammunition magazine in a pistol.

15. The Defendant manufactures, and/or sells, and/or induces others to use and sell magazine entrance guide assemblies which, upon information and belief, embody the subject matter claimed in the '542 Patent.

16. Specifically, upon information and belief, the Defendant manufactures and/or sells, and/or induces others to use, magazine entrance guide assemblies, including but not limited to its "Magwell for Sig P226 DA/SA (PN: 225-11)" with associated third-party hand grips, which embody the subject matter protected under the '542 Patent.

17. Consumers who purchase Defendant's accused products and use them in accordance with Defendant's instructions directly infringe one or more of the claims of the '542 Patent in violation of 35 U.S.C. § 271.

18. Upon information and belief, there is no use of Defendant's accused products that does not infringe one or more claims of the '542 Patent.

**AS AND FOR A FIRST CLAIM FOR RELIEF  
FOR PATENT INFRINGEMENT PURSUANT TO  
35 U.S.C. §§ 271 AND 281  
SEEKING INJUNCTIVE AND MONETARY RELIEF**

19. Sportco realleges paragraphs 1 through 18 as if fully set forth herein.

20. The Defendant has been and is infringing the '542 Patent by manufacturing, offering for sale, and by selling magazine entrance guide assemblies which embody the subject matter of the patented invention of the '542 Patent in this District and elsewhere in the United States in violation of the patent laws of the United States.

21. Upon information and belief, the Defendant has committed and continues to commit acts of infringement of the '542 Patent within this District and elsewhere in the United States and will continue to do so unless enjoined by this Court.

22. Upon information and belief, the Defendant has and continues to actively induce infringement of the '542 Patent within this District and elsewhere in the United States and will continue to do so unless enjoined by this Court.

23. Sportco does not have an adequate remedy at law.

24. Upon information and belief, Defendant's direct and contributory infringement, and active inducement of infringement is willful, intentional and deliberate, and has deprived Sportco of sales and profits which lawfully belong to it and which it otherwise would have made.

25. On account of the Defendant's activities in this State, this District, and throughout the United States, Sportco has been injured in an amount not yet ascertained.

26. This is an exceptional case within the provisions of 35 U.S.C. § 285, and Sportco is therefore, entitled to the recovery of enhanced damages and its attorneys' fees upon prevailing in this action.

**WHEREFORE**, Sportco demands judgment:

a. finding that the Defendant has copied Sportco's patented innovations and products;

b. preliminarily and permanently enjoining and restraining the Defendant, its agents, servants, employees, successors and assigns, and all those acting in concert or participation with it, from:

i) manufacturing, producing, distributing, importing, purchasing or selling pool cleaning products embodying the subject matter of the invention of the '542 Patent;

ii) engaging in any other activity constituting an infringement of the '542 Patent;

iii) assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to herein;

c. directing that the Defendant, at its sole expense, recall all magazine entrance guide assemblies that embody the inventions of the claims of the '542 Patent which were manufactured, distributed, sold or shipped by it and to reimburse its customers from whom said merchandise was recalled;

d. directing that the Defendant deliver to Sportco's attorneys or representatives for destruction all products, molds, plates, dies and any other materials in their possession or under their control which embody the inventions of the claims of the '542 Patent;

e. directing that the Defendant file with the Court and serve on Sportco's counsel a report in writing and under oath setting forth in detail the manner in which Defendant has complied with any temporary restraining order, or preliminary or permanent injunction entered herein within thirty (30) days of receipt of service of any such order or injunction;

f. directing the Defendant to account to Sportco for actual damages suffered by it, including its lost sales, as a result of the infringement and the active inducement of infringement of the '542 Patent, directing that such damages be trebled because of the willful and deliberate nature and character of the infringement, together with an assessment of interest, and awarding Sportco judgment in that amount against the Defendant;

g. directing the Defendant to account to Sportco for the Defendant's unjustly received profits resulting from infringement of the '542 Patent;

h. for an assessment of costs, interest and attorneys' fees incurred by Sportco; and

i. for such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Sportco hereby demands a trial by jury for all issues triable to a jury.

Dated: October 15, 2014  
New York, New York

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