

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Total Automotive, Inc.,)	Civil No. 0:14-CV-01066 (ADM/FLN)
)	
Plaintiff,)	
)	
v.)	AMENDED COMPLAINT
)	
Dorman Products, Inc.,)	JURY TRIAL DEMANDED
)	
Defendant.)	

Plaintiff Total Automotive, Inc. (“Total Automotive”), for its Complaint against Defendant Dorman Products, Inc. (“Dorman”), states and alleges as follows:

NATURE OF THE ACTION

1. This action is based on the patent laws of the United States, 35 U.S.C. § 1 *et seq.*
2. Total Automotive seeks injunctive relief and damages for Dorman’s importation or manufacture, Dorman’s offering to sell, sale, and use, as well as Dorman’s inducement of and contribution to the offering to sell, sale, and use by others of hinge bracket kits for automobiles, which kits infringe U.S. Patent No. 8,601,654 (the “ ’654 Patent”).

PARTIES

3. Total Automotive is a Minnesota corporation, with a principal place of business in Chanhassen, Minnesota.
4. Dorman is a Pennsylvania corporation with its principal place of business at 3400 East Walnut Street, Colmar, Pennsylvania, 18915.
5. Dorman supplies automotive replacement parts to the automotive aftermarket and

mass merchandise markets throughout the United States, including in Minnesota.

JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction over the claims made by Plaintiff in this action under 28 U.S.C. §§ 1331 and 1338.

7. This Court has personal jurisdiction over Dorman because Dorman has offered and offers infringing products for sale in this District and its actions foreseeably cause damage to Total Automotive in this District.

8. Venue in this District is proper pursuant to 28 U.S.C. §§ 1391 and 1400.

FACTUAL BACKGROUND

9. Total Automotive incorporates paragraphs 1 through 8 hereof as if fully set forth herein.

10. Non-party RB Distribution, Inc. (“RB Distribution”), is a Pennsylvania corporation located, like Dorman, at 3400 East Walnut Street, Colmar, Pennsylvania, 18915.

11. Upon information and belief, RB Distribution is a company related to Dorman through common ownership or other corporate affiliation.

12. On repeated occasions, one or more persons using computers with IP addresses registered to RB Distribution have logged into Total Automotive’s password-protected website using the login ID and password of Total Automotive customers, including, but not limited to, Dempster Auto Corporation, a Pennsylvania corporation, d/b/a Dempster’s Quality Car Care and d/b/a Dempster’s Quality Auto Care; and Danken Auto Supply.

13. RB Distribution’s access of Total Automotive’s website, using login IDs and passwords of others, without Total Automotive’s consent, is a violation of Total Automotive’s

“click wrap” agreement, which agreement is displayed on its login page and agreed to upon each login.

14. The unlawful access to Total Automotive’s password-protected site was, upon information and belief, done with the knowledge and consent, and with the express intention, of providing information to Dorman regarding Total Automotive’s product catalogs and non-public pricing.

15. Dorman has with respect to various Total Automotive products introduced competing products into the marketplace shortly after Total Automotive’s introduction of such products into the market.

16. Upon information and belief, Dorman’s product introductions were based, in whole or in part, on Total Automotive’s product introductions, using information obtained, in whole or in part, from Dorman’s agent RB Distribution’s unlawful access to Total Automotive’s password-protected website.

17. On December 10, 2013, the United States Patent and Trademark Office duly and legally issued the ’654 Patent, entitled *Door Hinge Repair Apparatus and Method*.

18. A copy of the ’654 Patent is attached hereto as Exhibit 1.

19. The ’654 Patent is a continuation of application 12/512,443, filed on July 30, 2009, now Patent No. 8,001,665, which is a continuation of application 11/429,776, filed on May 8, 2006, now Patent No. 7,568,267, which is a continuation of application 10/858,783, filed on June 2, 2004, now Patent No. 7,059,032 (the “ ’032 Patent”).

20. Each of the Patents referenced in the preceding paragraph claim priority to provisional application 60/475,886, filed on June

21. 4, 2003, and provisional application 60/475,860, filed on June 4, 2003.

22. Total Automotive owns the '654 Patent by assignment.

23. Following its prior pattern of copying Total Automotive's new products as set forth in paragraphs 10 through 13, Dorman has infringed and continues to infringe the '654 Patent directly, contributorily, and via inducement in this District and elsewhere by importing or making, selling, using, and offering to sell hinge bracket kits comprising a substitute bracket for use in replacing the factory hinge bracket, wherein the substitute bracket comprises at least a first opening corresponding to the first opening of the vehicle frame bracket and a second opening corresponding to the second opening of the vehicle frame bracket, a first substitute pin for use in replacing the first pin, wherein the first substitute pin comprises a locking portion, and further wherein the locking portion of the first substitute pin is configured as a function of the first opening of the substitute bracket, and a second substitute pin for use in replacing the second pin, wherein the second substitute pin comprises a locking portion, and further wherein the locking portion of the second substitute pin is configured as a function of the second opening of the substitute bracket.

24. Additionally, Dorman has infringed and continues to infringe the '654 Patent directly, contributorily, and via inducement in this District and elsewhere by importing or making, selling, using, and offering to sell hinge bracket kits comprising a substitute bracket for use in replacing the factory hinge bracket, wherein the substitute bracket comprises at least a first opening corresponding to the first opening of the vehicle frame bracket and a second opening corresponding to the second opening of the vehicle frame bracket, a first substitute pin for use in replacing the first pin, wherein the first substitute pin comprises a locking portion, and further wherein the locking portion of the first substitute pin comprises a knurl region to provide a locking function between the knurl region and the first opening of the substitute bracket when

installed, and a second substitute pin for use in replacing the second pin, wherein the second substitute pin comprises a locking portion, and further wherein the locking portion of the second substitute pin comprises a knurl region to provide a locking function between the knurl region and the second opening of the substitute bracket when installed.

25. Alternatively, Dorman has infringed and continues to infringe the '654 Patent directly, contributorily, and via inducement in this District and elsewhere by importing or making, selling, using, and offering to sell hinge bracket kits comprising a substitute bracket for use in replacing the factory hinge bracket, wherein the substitute bracket comprises at least a substitute bracket for use in replacing the hinge bracket, wherein the substitute bracket comprises at least a first opening generally corresponding to the first opening of the vehicle frame bracket and a second opening generally corresponding to the second opening of the vehicle frame bracket, a first substitute pin for use in replacing the first pin, wherein the first substitute pin comprises a portion adapted to engage with the first opening of the substitute bracket to inhibit rotation of the first substitute pin relative to the substitute bracket, and a second substitute pin for use in replacing the second pin, wherein the second substitute pin comprises a portion adapted to engage with the second opening of the substitute bracket to inhibit rotation of the second substitute pin relative to the substitute bracket.

26. Alternatively, Dorman has infringed and continues to infringe the '654 Patent directly, contributorily, and via inducement in this District and elsewhere by importing or making, selling, using, and offering to sell hinge bracket kits comprising a substitute bracket for use in replacing the factory hinge bracket, wherein the substitute bracket comprises at least a first opening having different dimensions than the first opening in the hinge bracket and a second opening having different dimensions than the second opening in the hinge bracket, a first

substitute pin for use in replacing the first pin, wherein the first substitute pin comprises a portion adapted to engage with the first opening of the substitute bracket to inhibit rotation of the first substitute pin relative to the substitute bracket, and a second substitute pin for use in replacing the second pin, wherein the second substitute pin comprises a portion adapted to engage with the second opening of the substitute bracket to inhibit rotation of the second substitute pin relative to the substitute bracket.

27. Dorman's hinge bracket kits have no substantial non-infringing use.

28. Dorman is continuing to import or make, sell, use, and offering for sale hinge bracket kits infringing the '654 Patent.

29. Dorman has known of the '032 Patent since at least the AAPEX Show on November 3, 2009, and has known of the '654 Patent since no later than April 11, 2014.

COUNT I **PATENT INFRINGEMENT**

30. Total Automotive incorporates paragraphs 1 through 29 hereof as if fully set forth herein.

31. Dorman has infringed and continues to infringe the '654 Patent by importing or making, using, selling, and/or offering to sell within the United States products that embody one of more of the claims of the '654 Patent, including products bearing a Dorman part number of 38417, 38418, 38456, and 38457.

32. Dorman is further intentionally encouraging and inducing infringement by its customers, who are selling, purchasing, and/or using the infringing Dorman hinge bracket kits, in violation of Total Automotive's rights under the '654 Patent.

33. Dorman has not had and does not have authorization, or a license or permission to

use the subject matter claimed in the '654 Patent.

34. By infringing—directly, contributorily, and by inducement—one or more claims of the '654 Patent, Dorman has unfairly reaped a substantial commercial and competitive advantage and savings in research, development, and operational time and cost, all to Total Automotive's detriment.

35. As a direct and proximate result of Dorman's infringement of the '654 Patent, Total Automotive has been injured and has been caused significant financial damage.

36. Dorman previously withdrew its product from the market after being advised that it infringed Total Automotive's patent rights.

37. Dorman's reintroduction of its hinge bracket kits into the market constitutes a willful infringement and violation of Total Automotive's patent rights.

38. Dorman has refused to withdraw its infringing products from the market, will continue to infringe the '654 Patent, will continue to harm Total Automotive's market position, for which no adequate remedy at law exists, and Dorman will cause irreparable injury and damage to Total Automotive, unless enjoined by this Court.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Total Automotive seeks the following relief:

1. Entry of judgment that Dorman has willfully infringed the '654 Patent and is liable to Total Automotive for infringement;

2. An Order enjoining Dorman from infringing, inducing others to infringe, or contributing to the infringement of the '654 Patent.

3. An award of damages adequate to compensate Total Automotive for Dorman's direct infringement of the '654 Patent, in an amount to be determined at trial, but in no event less

than a reasonable royalty;

4. An award of damages adequate to compensate Total Automotive for Dorman's inducement of infringement of the '654 Patent, in an amount to be determined at trial;

5. An award of damages adequate to compensate Total Automotive for Dorman's contributory infringement of the '654 Patent, in an amount to be determined at trial;

6. An Order directing Dorman to deliver for destruction all infringing products in its possession or control;

7. An Order directing Dorman to retrieve, to the extent possible, all infringing products sold;

8. An Order directing Dorman to disclose all purchasers of infringing products, except for those products that Dorman actually retrieves from such purchasers;

9. If a permanent injunction is not granted, a judicial determination of the conditions for future infringement, such as a royalty-bearing compulsory license or such other relief as may be appropriate;

10. A post-judgment equitable accounting of damages for the period of infringement of the '654 Patent following the period of damages established at trial;

11. An award of treble damages pursuant to 35 U.S.C. § 284 for Dorman's willful infringement;

12. A finding that this case is exceptional pursuant to 35 U.S.C. § 285;

13. An award of pre- and post-judgment interest, attorneys' fees, and costs pursuant to 35 U.S.C. § 285; and

14. Any such other just and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all claims and issues so triable.

STOEL RIVES LLP

Dated: October 31, 2014

s/ Marc A. Al

Marc A. Al (MN Bar ID 247923)

Andrew J. Pieper (MN Bar ID 389262)

33 South Sixth Street, Suite 4200

Minneapolis, MN 55402

Telephone: (612) 373-8801

Facsimile: (612) 373-8881

maal@stoel.com

ajpieper@stoel.com

**ATTORNEYS FOR PLAINTIFF
TOTAL AUTOMOTIVE, INC.**