

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

Peter F. Wingard)	
Netlatch, LLC)	
)	
Plaintiffs,)	
)	
vs.)	Civil Action File No.: 5:14-cv-00066
)	
Orr Motor Company, Inc.)	
American Honda Motor Co., Inc.)	
)	
Defendants.)	
)	
)	

AMENDED COMPLAINT

Plaintiffs Peter F. Wingard and Netlatch, LLC (“Plaintiffs”) hereby file this Complaint against Orr Motor Company, Inc. (hereinafter Orr) and American Honda Motor Co., Inc. (“Honda”) (collectively “Defendants”) and respectfully allege as follows:

PARTIES, JURISDICTION, AND VENUE

1.

Plaintiff Peter F. Wingard is a resident of Georgia. Netlatch, LLC is a limited liability company formed under the laws of Florida, having a principal place of business at 1061 OakPointe Place, Dunwoody, GA 30338.

2.

Upon information and belief, Defendant Orr located at 4602 Guss Orr Drive, Texarkana, TX 75503 has done business in the Eastern District of Texas at all times material hereto. Honda is a corporation organized and existing under the laws of California, having a principal place of business at 1919 Torrance Blvd., Torrance, California 90501. Honda is engaged in the business of distributing motor vehicles and related parts and accessories, and is the sole authorized distributor in the United States of Honda-branded automobiles to a network of Honda dealers including Orr with locations throughout the country.

3.

This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*

4.

Subject matter jurisdiction in this Court is proper under 28 U.S.C. §§ 1331, 1338(a).

5.

Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400.

6.

The Court has personal jurisdiction over Orr *inter alia* because Orr resides in this district and because a substantial part of the events or omissions giving rise to the claim occurred in this District. The Court has personal jurisdiction over Honda

inter alia because a substantial part of the events or omissions giving rise to the claim occurred in this District.

COUNT I: PATENT INFRINGEMENT
(U.S. PATENT NO. 5,530,431)

7.

Mr. Wingard pioneered the technology behind keyless ignition systems.

8.

Keyless ignition systems enable engines in vehicles to be started without inserting a key in the ignition with the use of coded key. Generally, keyless ignition is achieved when a “key fob” transmits a unique code to a car’s receiver and the unique code transmitted by the key fob matches the unique code stored on the car’s memory.

9.

On June 25, 1996, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 5,530,431 (“the ‘431 patent”), entitled “Anti-Theft Device For Protecting Electronic Equipment” to Mr. Wingard. A true and correct copy of the ’431 Patent is attached as Exhibit A.

10.

The ‘431 Patent is directed to apparatuses and methods for providing security for electronic equipment. In particular, the ‘431 Patent is directed to a method to secure electronic equipment by configuring the electronic equipment to power up

only in the presence of a unique code transmitted to the electronic equipment from an external source.

11.

Wingard has been at all relevant times up to July 28, 2014, the owner of all rights, title, and interest in the '431 Patent. On July 28, 2014, Wingard assigned the '431 patent to Netlatch, LLC.

12.

The '431 Patent is valid.

13.

The '431 Patent is enforceable.

14.

Upon information and belief, Defendants use, sell, offer to sell, and/or import vehicles incorporating keyless ignition systems.

15.

Upon information and belief, Orr uses, sells, offers to sell, and/or imports vehicles incorporating keyless ignition systems (i.e., systems that enable engines in vehicles to be started with the use of a coded key, which may or may not be inserted into an ignition) (hereinafter, "Accused Orr Products"). For example, upon information and belief, Orr uses, sells, offers to sell, and/or imports vehicles incorporating keyless ignition systems under the names Honda Odyssey, Honda Accord, Honda Crosstour, Smart Entry, Keyless Access system, Keyless Entry

System, Push Button Start, or names of like import including but not limited to, keyless ignition systems included with any Honda, Acura, Audi, BMW, Buick, Cadillac, Chevrolet, Chrysler, Dodge, Fiat, Ford, GMC, Honda, HUMMER, Hyundai, Infiniti, Jeep, Kia, Lexus, Lincoln, Mazda, Mercedes-Benz, Mercury, MINI, Mitsubishi, Nissan, Pontiac, Ram, Saturn, Scion, Toyota, and Volkswagen sold by Orr.

Upon information and belief, Honda uses, sells, offers to sell, and/or imports vehicles incorporating keyless ignition systems (i.e., systems that enable engines in vehicles to be started with the use of a coded key, which may or may not be inserted into an ignition) (hereinafter, “Accused Honda Products”). For example, upon information and belief, Honda uses, sells, offers to sell, and/or imports vehicles incorporating keyless ignition systems under the names Honda Odyssey, Honda Accord, Honda Crosstour, Smart Entry, Keyless Access system, Keyless Entry System, Push Button Start, or names of like import. The Accused Orr Products and Accused Honda Products are collectively referred to as Accused Products.

16.

Upon information and belief, the Accused Products embody and/or practice the ‘431 Patent’s claimed apparatus, system, and/or method for providing security for electronic equipment.

17.

Defendants Orr and Honda have infringed, and is continuing to infringe, the '431 Patent by using, importing, selling and/or offering to sell the Accused Orr Products and Accused Honda Products, respectively, within the United States, and/or by contributing to and/or inducing such infringement.

18.

For example, on information and belief, Orr uses, imports, sells and/or offers to sell within the United States infringing products incorporating keyless ignition systems, including without limitation, the Accused Orr Products. On information and belief, Honda uses, imports, sells and/or offers to sell within the United States infringing products incorporating keyless ignition systems, including without limitation, the Accused Honda Products.

19.

Upon information and belief, by using, importing, selling, and/or offering to sell the Accused Orr Products and Accused Honda Products in the United States, Defendants Orr and Honda, respectively, with specific intent, have actively induced others to infringe the '431 Patent under 35 U.S.C. § 271(b). For example, Honda has actively induced Orr, its other dealers, and its dealers' customers to infringe the '431 Patent by importing, selling, and/or offering to sell the Accused Honda Products for or to Orr. Orr has actively induced its customers to infringe the '431

Patent by importing, selling, and/or offering to sell the Accused Orr Products for or to its customers

20.

Upon information and belief, an Accused Products constitute a material part of the invention claimed in the '431 Patent.

21.

Upon information and belief, Defendants Orr and Honda have both the knowledge and intent that the Accused Orr Products and Accused Honda Products, respectively, that it uses, imports, sells, and/or offers to sell in the United States will be used in an infringing manner, and Defendants Orr and Honda encourage and promote the Accused Orr Products and Accused Honda Products, respectively, to be used in an infringing manner. For example, Honda has both the knowledge and intent that the Accused Honda Products that it uses, imports, sells, and/or offers to sell in the United States will be used in an infringing manner and encourages and promotes the Accused Honda Products to be used by Orr, its other dealers, and its dealers customers in an infringing manner. Orr has both the knowledge and intent that the Accused Orr Products that it uses, imports, sells, and/or offers to sell in the United States will be used in an infringing manner and encourages and promotes the Accused Orr Products to be used by its customers in an infringing manner.

22.

Upon information and belief, Defendants Orr and Honda are using, importing, selling, and/or offering to sell in the United States the Accused Orr Products and Accused Honda Products, respectively, with knowledge that (1) the Accused Orr Products and Accused Honda Products, respectively, are especially made or especially adapted for use in an infringement of the '431 Patent, and (2) the Accused Orr Products and Accused Honda Products, respectively, are not staple articles or commodities of commerce suitable for noninfringing use.

For example, upon information and belief, Defendants Honda is using, importing, selling, and/or offering to sell in the United States the Accused Honda Products to Orr, its other dealers, and its dealers' customers with knowledge that (1) the Accused Honda Products are especially made or especially adapted for use in an infringement of the '431 Patent, and (2) the Accused Honda Products are not staple articles or commodities of commerce suitable for noninfringing use.

Upon information and belief, Defendants Orr is using, importing, selling, and/or offering to sell in the United States the Accused Orr Products to its customers with knowledge that (1) the Accused Orr Products are especially made or especially adapted for use in an infringement of the '431 Patent, and (2) the Accused Orr Products are not staple articles or commodities of commerce suitable for noninfringing use.

Orr and Honda are therefore liable as a contributory infringer under 35 U.S.C. § 271(c).

23.

Upon information and belief, Orr had actual knowledge of the ‘431 Patent before the filing of this Complaint. More specifically, on or about November 19, 2013, Plaintiff Wingard sent a letter to Orr informing Orr of its infringement of the ‘431 Patent. Upon information and belief, Honda had actual knowledge of the ‘431 Patent before the filing of this Complaint.

24.

Upon information and belief, Defendants’ acts of direct and/or indirect infringement of the ‘431 Patent are and have been willful, have caused and will continue to cause Plaintiffs to suffer substantial damages, and have caused and will continue to cause Plaintiffs to suffer irreparable harm unless Defendant is permanently enjoined from continuing its infringement.

25.

Plaintiffs have no adequate remedy at law.

26.

Plaintiffs seek (1) damages adequate to compensate it for Defendant’s infringement of the ‘431 Patent, (2) treble damages; (3) attorneys’ fees; (4) cost; and (5) a preliminary and thereafter permanent injunction.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for the following relief against Defendant:

- (a) a judgment that Defendants infringed the '431 Patent;
- (b) that Defendants are preliminarily and permanently enjoined from further infringement pursuant to 35 U.S.C. § 283;
- (c) that Defendants be ordered pursuant to 35 U.S.C. § 284 to account to and pay Plaintiffs for the actual damages suffered by Plaintiffs as a result of Defendants' acts of infringement of the '431 Patent;
- (d) That Defendants be ordered to pay Plaintiffs treble damages pursuant to 35 U.S.C. §284;
- (e) That Defendants be ordered to pay prejudgment interest pursuant to 35 U.S.C. §284;
- (f) That Defendants be ordered to pay all costs associated with this action pursuant to 35 U.S.C. §284;
- (g) That Defendants be ordered to pay Plaintiffs' attorneys' fees pursuant to 35 U.S.C. §285; and
- (h) That Plaintiffs are granted such other and additional relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all issues so triable as of right and plead in this case.

Respectfully submitted this 3rd day of November 2014.

/s/ Charlena Thorpe
Charlena L. Thorpe
Georgia Bar No. 760954
charlena.thorpe@charlenathorpe.com
THE LAW OFFICE OF CHARLENA
THORPE, INC.
2180 Satellite Boulevard
Suite 400
Duluth, GA 30097
Tel: 770-239-1642
Fax: 888-898-3784

Attorney for Plaintiffs

I certify that I have served **AMENDED COMPLAINT** on opposing counsel via electronic means pursuant to the parties' agreement on November 3, 2014.

This 3rd day of November, 2014.

/s/ Charlena Thorpe
Charlena Thorpe
Georgia Bar No. 760954
charlena.thorpe@charlenathorpe.com
THE LAW OFFICE OF CHARLENA THORPE, INC.
2180 Satellite Boulevard Suite 400
Duluth, GA 30097
Tel: 770-239-1642, Fax: 888-898-3784

Attorney for Plaintiff

EXHIBIT A