

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

KINEDYNE CORPORATION,
A Delaware Corporation,

Plaintiff,

Case No.

v

MULTIPRENS USA, INC.,
A Missouri Corporation,

Defendant.

MARSHALL G. MACFARLANE (P27296)

Young Basile

301 E. Liberty, Suite 700

Ann Arbor, Michigan 48104

(734) 662-0270

macfarlane@youngbasile.com

Attorneys for Plaintiff

COMPLAINT

The above-named Plaintiff, by and through its attorneys, YOUNG BASILE, for its complaint against the Defendant, states as follows:

1. The Plaintiff is a Delaware corporation, having its principal place of business at 151 Industrial Parkway, North Branch, New Jersey 00876.
2. The Defendant, on information and belief, is a Missouri corporation, having its principal place of business at 1111 Virginia Avenue, Kansas City, Missouri 64106. The Defendant is a corporation having an international reach, and conducts business in each state of the United States, including within this jurisdiction.

3. This action arises under the laws of the United States, and specifically, arises under the laws of the United States relating to patents. The United States District Court for the Eastern District of Michigan has jurisdiction over the present dispute pursuant to the provisions of 28 USC § 1331; 28 USC § 1332 and 28 USC § 1338.

4. The Defendant is subject to the personal jurisdiction of the laws of the State of Michigan, pursuant to the Michigan Long Arm Statute. Accordingly, venue is proper in this Court pursuant to the provisions of 28 USC § 1400 and 28 USC § 1391.

ALLEGATIONS COMMON TO ALL COUNTS

5. The plaintiff is the owner, by assignment, of U.S. Patent No. 5,853,164, entitled "Track-Supported Winch and Method of Making the Same". At all times pertinent to the allegations of this Complaint, said patent has been valid and in force. A copy of said patent is attached to this Complaint and designated as Exhibit A.

6. The plaintiff is the owner, by assignment, of U.S. Patent No. 5,979,876, issued November 9, 1999, and entitled "Jack Bar Quick Release". At all times pertinent to the allegations of this Complaint, said patent has been valid and in full force. A copy of said patent is attached to this Complaint and designated as Exhibit B.

7. The plaintiff has advertised, offered for sale and sold throughout the United States, products which embody the inventions claimed in the above-referenced '164 and '876 patents, and has enjoyed substantial commercial success in the marketplace as a result of the '164 and '876 patents. Plaintiff's advertising, offers for sale and sales of the patented inventions above-described have taken place within this jurisdiction.

8. By virtue of the ownership of the '164 and '876 patents, the plaintiff is entitled to the exclusive right to make, sell, offer for sale and use the patented inventions in the United States.

COUNT I

Infringement of U.S. Patent No. 5,853,164

9. Plaintiff realleges and incorporates by reference the allegations of the Complaint as set forth in Paragraphs 1-8 above, as if fully set forth herein.

10. The defendant is in the business of manufacturing, offering for sale, selling, marketing and/or distributing cargo control equipment for the trucking industry. Among products offered for sale by the defendant are winches designed for securing cargo on flat bed trailers and other vehicles.

11. Among the products manufactured, sold, offered for sale or used by the defendant are one or more double L sliding winches of the type depicted in Exhibit C.

12. The products being manufactured, sold, offered for sale or used by the defendant infringe at least one claim of the '164 patent.

13. The actions of the defendant in manufacturing, selling, offering for sale or using the above-described products have been undertaken without license, permission or authorization from plaintiff.

14. The actions of the defendant, therefore, constitute an infringement of the plaintiff's rights in the '164 patent.

15. As a result of the actions of the defendant in infringing the plaintiff's patent, plaintiff has been damaged, and is threatened with the risk of irreparable harm in the event that continuing infringement of the patent is not enjoined.

COUNT II

Infringement of U.S. Patent No. 5,979,876

16. Plaintiff realleges and incorporates by reference the allegations of the Complaint as set forth in Paragraphs 1-15 above, as if fully set forth herein.

17. The defendant is in the business of manufacturing, offering for sale, selling, marketing and/or distributing cargo control equipment for the trucking industry. Among products offered for sale by the defendant are jacking load bars designed for securing cargo in trailers and other vehicles.

18. Among the products manufactured, sold, offered for sale or used by the defendant are one or more jacking load bars of the type depicted in Exhibit D.

19. The products being manufactured, sold, offered for sale or used by the defendant infringe at least one claim of the '876 patent.

20. The actions of the defendant in manufacturing, selling, offering for sale or using the above-described products have been undertaken without license, permission or authorization from plaintiff.

21. The actions of the defendant, therefore, constitute an infringement of the plaintiff's rights in the '876 patent.

22. As a result of the actions of the defendant in infringing the plaintiff's patent, plaintiff has been damaged, and is threatened with the risk of irreparable harm in the event that continuing infringement of the patent is not enjoined.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for an order of this Court to include the following relief:

- A. Monetary damages in an amount to be determined by an accounting.
- B. A preliminary injunction during the pendency of this litigation enjoining further acts of patent infringement by the defendant.
- C. A permanent injunction permanently enjoining the defendant, and those acting in concert with it, from further acts of patent infringement.
- D. An order requiring the defendant, and those acting in concert with it, to deliver up for destruction any and all products which infringe the patents-in-suit.
- E. Such other relief as may be deemed appropriate and proper in equity and good conscience.

JURY DEMAND

Plaintiff hereby demands a trial by jury in the above cause, as to all issues so triable.

s/Marshall G. MacFarlane
Marshall G. MacFarlane (P27296)
YOUNG BASILE
301 East Liberty, Suite 700
Ann Arbor, Michigan 48104
(734) 662-0270
(734) 662-1014 *facsimile*
macfarlane@youngbasile.com
Attorneys for Plaintiff

Dated: July 21, 2008

JS 44 (Rev. 12/07)

CIVIL COVER SHEET County in which action arose Washtenaw

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS</p> <p>KINEDYNE CORPORATION A Delaware Corporation</p> <p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) <u>(734) 662-0270</u> Marshall G. MacFarlane-Young Basile 301 E. Liberty, Ste 700, Ann Arbor, MI</p>	<p>DEFENDANTS</p> <p>MULTIPRENS USA, INC. A Missouri Corporation</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td>PTF</td> <td>DEF</td> <td></td> <td>PTF</td> <td>DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	LABOR	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC 7609	
	PRISONER PETITIONS			
	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC § 1331; 28 USC § 1332 and 28 USC § 1338

Brief description of cause:
Patent Infringement

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

- Yes
- No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

- Yes
- No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :

PATENT, TRADEMARK, COPYRIGHT INFORMATION
(To be distributed when 820, 830, 840 category case is filed)

1. If this is a patent action, please respond:

PATENT NO.	DATE OF PATENT	PATENTEE
<u>5,853,164</u>	<u>December 29, 1998</u>	<u>Kinedyne Corp.</u>
<u>5,979,876</u>	<u>November 9, 1999</u>	<u>Kinedyne Corp.</u>

2. If this is a trademark action, please respond:

TRADEMARK NO.	DATE OF TRADEMARK	TRADEMARK APPLICANT

3. If this is a copyright action, please respond:

COPYRIGHT REG. NO.	TITLE OF WORK	AUTHOR OF WORK

Date: July 21, 2008

s/Marshall G. MacFarlane
Attorney's Signature