

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

KATCH KAN HOLDINGS USA, INC.;	§	
KATCH KAN USA, LLC,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	CIVIL ACTION NO. No. 3:14-cv-2172
	§	
CAN-OK OIL FIELD SERVICES, INC.,	§	
	§	
Defendant.	§	
	§	

FIRST AMENDED COMPLAINT

Plaintiffs Katch Kan Holdings USA, Inc. and Katch Kan USA, LLC (collectively, “Katch Kan”) file this First Amended Complaint against Can-Ok Oil Field Services, Inc. as set forth below:

I. PARTIES

1. Plaintiff Katch Kan Holdings USA, Inc. (“Katch Kan Holdings”) is a Texas corporation with its registered agent for service at 1300 W. Sam Houston Parkway, Suite 340, Houston, Texas 77042.

2. Plaintiff Katch Kan USA, LLC (“Katch Kan USA”) is a Texas limited liability company with its principal place of business located at 1092 Old Hwy 105 W, Suite 102, Conroe, Texas 77304.

3. Defendant Can-Ok Oil Field Services, Inc. (“Can-Ok”) is a corporation organized under the laws of the State of Oklahoma, having a place of business located at 887 County Road 1405, Chickasha, Oklahoma 73018. Can-Ok is registered to do business in the State of Texas.

Can-Ok may be served with a copy of this Original Complaint by serving its registered agent in the State of Texas, CT Corporation, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

II. NATURE OF THIS ACTION

4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101, et seq., and particularly 35 U.S.C. §§ 271-287.

III. JURISDICTION AND VENUE

5. This Court has exclusive subject matter jurisdiction over this action under 28 U.S.C. § 1338(a).

6. Defendant Can-Ok is subject to personal jurisdiction by virtue of its contacts with the State of Texas, and with the Northern District of Texas in particular. Can-Ok voluntarily does business in this district.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

IV. FACTS

8. On December 23, 2003, U.S. Patent No. 6,666,287 (“the ‘287 patent”) was duly and legally issued by the U.S. Patent and Trademark Office (“PTO”) to Mr. Quinn Holtby for an invention relating to a “Method And Apparatus For Enclosing An Oil Drilling Rig.” A true and correct copy of the ‘287 patent is attached hereto as Exhibit A. The ‘287 patent is presumed valid pursuant to 35 U.S.C. § 282.

9. On June 10, 2013, Mr. Quinn Holtby assigned the ‘287 patent to Katch Kan Holdings.

10. Katch Kan USA is the exclusive master dealer of Katch Kan products in the continental United States (lower 48 states). In Texas, Katch Kan USA rents to end users spill containment devices incorporating the technology of the ‘287 patent. These spill containment

devices are marketed under Katch Kan's "Zero Spill System" product line and have been very successful in the market since their introduction.

11. Can-Ok is an oil field services company providing drilling tool sales and rentals and inspection services related to the drilling of oil and gas wells. Can-Ok regularly provides equipment and services to drilling contractors and oilfield customers.

12. Can-Ok makes, uses, sells and/or offers to sell oil rig spill containment devices covered by the claims of the '287 patent when installed on an oil rig. Can-Ok has made, used, sold, or offered for sale the oil rig spill containment devices covered by the claims of the '287 patent in Wheeler County, Texas and Hemphill County, Texas.

13. Can-Ok has caused its customers to use the oil rig spill containment devices covered by claims of the '287 patent in Wheeler County, Texas and Hemphill County, Texas. Can-Ok's oil rig spill containment devices covered by the claims of the '287 patent have been used and installed by Can-Ok and used by Can-Ok's customers on oil rigs operating in North Texas.

14. Can-Ok has also used and installed and caused its customers to use oil rig spill containment devices covered by the claims of the '287 patent in Western Oklahoma, including: Grady County, Oklahoma; Stephens County, Oklahoma; Washita County, Oklahoma; and Roger Mills County, Oklahoma. Can-Ok has also used and installed and caused its customers to use oil rig spill containment devices covered by the claims of the '287 patent in Western Louisiana, including in or around Shreveport, Louisiana.

15. Can-Ok has provided, installed, and used oil rig spill containment devices covered by the claims of the '287 patent for its customers including Continental Resources, Samson Resources, Unit Petroleum, EnerVest Operating, and Chesapeake Energy on rigs owned or

operated by Nomac Drilling, L.L.C., Patterson UTI-Drilling Company LLC, Nabors Drilling USA LP, and Latshaw Drilling Company.

16. Can-Ok has provided and installed oil rig spill containment devices covered by the claims of the '287 patent on the following rigs: Nomac 11, Nomac 10, Nomac 15, Nomac 51, Nomac 63, Nabors X06, Nabors X11, Nabors 270, Latshaw 9, Patterson 481, and Unit 327.

17. The oil rig spill containment devices made by Can-Ok, sold to Can-Ok's customers, installed by Can-Ok on its customers' oil rigs, and subsequently used by Can-Ok's customers are not staple articles or commodities of commerce suitable for a substantial noninfringing use.

18. Can-Ok has had knowledge of the '287 patent and Katch Kan's allegations of infringement since at least June 13, 2014, when a copy of the Original Complaint was provided to Can-Ok.

19. Even after learning of the '287 patent and of Katch Kan's allegations of infringement, Can-Ok continued to make, offer for sale, and sell oil rig spill containment devices covered by the claims of the '287 patent, and to install those devices on at least the following oil rigs: Cactus 155, Sidewinder 212, Latshaw 12, Sidewinder 128, H & P 526, Nabors F-04, H & P 377, Sidewinder 230, Sidewinder 212, Nabors M-27, H & P 528, Nomac 62, and Trinidad 112.

20. Accordingly, Can-Ok intended to induce its customers to use oil rig spill containment devices covered by the claims of the '287 patent, even after learning of the '287 patent and of Katch Kan's allegations of infringement.

V. PATENT INFRINGEMENT CLAIMS

21. Paragraphs 1 – 20 are incorporated by reference.

22. Can-Ok has been, and still is, making, using, offering to sell, and/or selling products that directly infringe one or more valid claims of the '287 patent without authority or license from Katch Kan.

23. Can-Ok has been, and still is, contributing to and/or inducing the infringement of one or more valid claims of the '287 patent by Can-Ok's customers without authority or license from Katch Kan.

24. Upon information and belief, Can-Ok's infringing activities have been willful and deliberate. Upon information and belief, Can-Ok was actually aware of the '287 patent and willfully committed acts of direct and indirect infringement.

25. As a result of Can-Ok's infringing activities, Katch Kan has suffered actual damages in an amount to be determined at trial. Additionally, as a result of the willful and deliberate nature of Can-Ok's infringing activities, Katch Kan is entitled to a trebling of its actual damages and is entitled to recover its attorney's fees and costs incurred in prosecuting this action, as provided for in 35 U.S.C. §§ 284-285.

26. Can-Ok's acts of infringement have caused irreparable harm to Katch Kan for which there is no adequate remedy at law, and will continue to cause irreparable harm to Katch Kan unless Can-Ok is preliminarily and permanently enjoined by this Court.

VI. PRAYER FOR RELIEF

Wherefore, Katch Kan respectfully requests that this Honorable Court enter judgment against Can-Ok, granting Katch Kan the following relief:

- A. a preliminary and permanent injunction enjoining Can-Ok, its owners, affiliates, officers, directors, managers, agents, servants, employees, trainees, and all persons in active concert or participation with it, from continuing to directly and indirectly infringe United States Patent No. 6,666,287;
- B. a judgment that United States Patent No. 6,666,287 has been and continues to be directly and indirectly infringed by Can-Ok;

- C. an award of damages adequate to compensate Katch Kan for Can-Ok's infringement of United States Patent No. 6,666,287;
- D. a determination that Can-Ok's infringement of United States Patent No. 6,666,287 has been willful and deliberate;
- E. an award of treble damages based on the willful and deliberate nature of Can-Ok's infringement;
- F. a determination that this case is "exceptional" under 35 U.S.C. § 285, thereby entitling Katch Kan to an award of its reasonable attorney's fees and costs incurred in prosecuting this action;
- G. an award of pre-judgment and post-judgment interest on all damages computed; and
- H. such other relief as this Court deems fair and appropriate.

DATED: June 19, 2015

Respectfully Submitted,

By : /s/ Eric S. Schlichter
Eric S. Schlichter
Texas Bar No. 24007994
eschlichter@winston.com
WINSTON & STRAWN LLP
1111 Louisiana, 25th Floor
Houston, Texas 77002
Telephone: (713) 651-2600
Facsimile: (713) 651-2700

ATTORNEY-IN-CHARGE FOR
PLAINTIFFS KATCH KAN HOLDINGS
USA, INC.; KATCH KAN USA, LLC

Of Counsel:

Dustin J. Edwards
Texas Bar No. 24042335
dedwards@winston.com

Richard T. McCarty
Texas Bar No. 24074675
rmccarty@winston.com

Luke A. Culpepper
Texas Bar No. 24059632
lculpepper@winston.com

WINSTON & STRAWN LLP
1111 Louisiana, 25th Floor
Houston, Texas 77002
Telephone: (713) 651-2600
Facsimile: (713) 651-2700

Local Counsel:

E. Leon Carter
Texas Bar No. 03914300
lcarter@carterscholer.com

CARTER SCHOLER ARNETT
HAMADA & MOCKLER, PLLC
Campbell Centre II
8150 N. Central Expy.
5th Floor
Dallas, Texas 75206
Telephone: (214) 550-8188
Facsimile: (214) 550-8185

CERTIFICATE OF SERVICE

On June 19, 2015, I electronically submitted the foregoing document with the clerk of the Court for the U.S. District Court, Northern District of Texas, using the CM/ECF system of the Court. I hereby certify that all counsel of record have been served electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

s/ Eric S. Schlichter
Eric S. Schlichter