

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION**

**GIRARD EQUIPMENT, INC. a New Jersey
Corporation,**

Plaintiff,

CASE NO.:

v.

**BETTS INDUSTRIES, INC., a Pennsylvania
Corporation,**

Defendant.

COMPLAINT

Plaintiff, Girard Equipment Inc. (“Girard”), by its and through its undersigned attorneys, alleges the following for its Complaint against Defendant, Betts Industries, Inc. (“Betts”):

Parties

1. Girard is a corporation organized and existing under the laws of the state of New Jersey, with its principal place of business and headquarters located at 4360 Old Dixie Highway, Vero Beach, Florida, 32967.

2. Upon information and belief, Betts is a corporation organized and existing under the laws of state of Pennsylvania with its principal place of business located at 1800 Pennsylvania Avenue West, Warren, Pennsylvania, 16365.

Jurisdiction and Venue

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and § 1338(a) because, in this action, Girard is bringing a claim of patent infringement

against Betts that arises under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has personal jurisdiction over Betts pursuant to Fla. Stat. §48.193(1)(b), §48.193(g) and §48.193(2) because Betts committed a tortious act within this state, or within this jurisdiction, caused injury to Girard who is domiciled in this State, or is engaged in substantial and not isolated activity within this State. .

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

Facts Common to All Counts

6. On September 1, 2015, United States Patent No. 9,121,523 (“the ‘523 patent”), entitled “Spring-Capture Assembly for a Spring-biased Mechanism and Pressure Relief Valve Including Same,” was duly and legally issued. A true and correct copy of the ‘523 patent is attached to this Complaint as Exhibit A.

7. Girard is the owner of all rights, title and interest to the ‘523 patent and has the right to bring a cause of action for patent infringement.

8. The ‘523 patent discloses and claims spring-capture assemblies, pressure relief valves and methods for disassembling spring-biased mechanisms.

9. Girard manufactures, sells, and/or distributes parts for over the road tankers and railroad tank cars, including, but not limited to, pressure relief valves/vents, vacuum breakers, vapor recovery adaptors, manlids, valves and replacement parts for such products. Some of the parts manufactured, sold and distributed by Girard that are covered by the ‘523 patent include, but are not limited to, the “407” pressure relief valve/vent with an “NPS” connection, the “407”

pressure relief valve/vent with an “ANSI” connection, the “407” pressure relief valve/vent with a “Weld-In” connection and the “407” pressure relief valve/vent with a “Swivel” connection.

10. Betts is in the business of manufacturing, selling and/or distributing parts for over the road tankers and railroad tank cars, namely pressure relief valves/vents, vacuum breakers, vapor recovery adaptors, manlids, valves and replacement parts for such products. In particular, Betts is manufacturing, selling, offering for sale and/or distributing a line of pressure relief valves/vents under the GUARDIAN™ brand name. This line of pressure relief valves/vents includes products having an “NPS” connection, an “ANSI” flanged connection, a “TTMA” flanged connection, an “NPS” swivel connection and a “Weld Stub” connection (collectively referred to as the GUARDIAN™ pressure relief valves/vents.

11. Attached as Exhibit “B” is a parts list from the website www.bettsind.com. The parts list includes a drawing of an infringing GUARDIAN™ 407/412 pressure vent.

12. Betts also sells a wrench and nut assembly that is used with each of the above-identified GUARDIAN™ pressure relief valves/vents for disassembling the pressure relief valves/vents.

13. Girard has performed all conditions precedent to be performed by Girard, or, the conditions have occurred.

14. Girard has had to retain the undersigned law firm for representation in this action.

COUNT I - DIRECT PATENT INFRINGEMENT

15. Girard repeats and makes a part hereof each and every allegation contained in paragraphs 1 through 14 of the Complaint.

16. This is a cause of action against Betts pursuant to 35 U.S.C. § 271(a) for direct infringement of the ‘523 Patent.

17. Betts' manufacture, sale, offering for sell and/or use of the GUARDIAN™ pressure relief valves/vents has infringed and continues to infringe one or more claims of the '523 patent either literally or under the doctrines of equivalents, in violation of 35 U.S.C. § 271(a).

18. Betts' aforesaid activities have been without authority and/or license from Plaintiff and are considered intentional and willful.

19. Girard is entitled to recover from Betts the damages sustained by Girard as a result of Betts' wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

20. Betts' infringement of Girard's exclusive rights under the '523 patent will continue to damage Girard, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Girard respectfully requests that this Court enter a judgment that:

A. Betts has infringed, and is directly infringing the '523 patent under 35 U.S.C. § 271(a);

B. Awards Girard damages adequate to compensate for Betts' infringement of the '523 patent under 35 U.S.C. § 284;

C. Finds Betts' infringement has been willful and deliberate and that Girard is entitled to an award of up to three times its compensable damages under 35 U.S.C. § 284;

D. Finds this case to be exceptional and that Girard is entitled to an award of its costs and reasonable attorneys' fees under 35 U.S.C. § 285;

E. Betts and its officers, directors, agents, servants, employees, successors, assigns, and all persons in active concert or participation with it, be preliminarily and permanently enjoined from infringing the '523 patent under 35 U.S.C. § 283;

F. Awards Girard costs, interest, fees, and other such further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Girard demands a jury trial on all issues so triable.

DATED this 10th day of November, 2015.

Respectfully submitted,

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Attorneys for Plaintiff,
GIRARD EQUIPMENT, INC.

By: /s/ Robert L. Wolter
Robert L. Wolter
Florida Bar No.: 0906344

JS 44 (Rev. 12/12) (Modified by FLSD - April 29, 2013)

CIVIL COVER SHEET

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 NEXT PAGE OF THIS FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS GIRARD EQUIPMENT, INC., a New Jersey Corporation, **DEFENDANTS** BETTS INDUSTRIES, INC., a Pennsylvania Corporation

(b) County of Residence of First Listed Plaintiff Indian River County, FL (EXCEPT IN U.S. PLAINTIFF CASES) County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Robert L. Wolter, Esq., Beusse Wolter Sanks & Maire, PLLC, 390 N. Orange Ave., Ste. 2500, Orlando, FL 32801 (407) 926-7700 Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) **III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in one Box for Plaintiff and One Box for Defendant)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	<input type="checkbox"/> Citizen of This State	<input type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	<input type="checkbox"/> Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input type="checkbox"/> DEF 4
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<input type="checkbox"/> Citizen of Another State	<input type="checkbox"/> PTF 2	<input type="checkbox"/> DEF 2	<input type="checkbox"/> Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> PTF 5	<input type="checkbox"/> DEF 5
		<input type="checkbox"/> Citizen or Subject of a Foreign Country	<input type="checkbox"/> PTF 3	<input type="checkbox"/> DEF 3	<input type="checkbox"/> Foreign Nation	<input type="checkbox"/> PTF 6	<input type="checkbox"/> DEF 6

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 <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical 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"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave 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"/> 465 Other Immigration Actions	<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 (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DJWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <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"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <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	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence Other: <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 <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)
 1 Original Proceeding 2 Removed from State Court 3 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment 8 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions):
 a) Re-filed Case YES NO b) Related Cases YES NO
 JUDGE _____ DOCKET NUMBER _____

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity).
 35 U.S.C. §271(a) direct infringement of U.S. Patent No. 9,121,523
 LENGTH OF TRIAL via _____ days estimated (for both sides to try entire case)

VIII. 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

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
 DATE 11/10/2015 SIGNATURE OF ATTORNEY OF RECORD [Signature]

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 RECEIPT # _____ AMOUNT _____ IFP _____ JUDGE _____ MAG JUDGE _____