

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

MARINE TRAVELIFT, INC.,

Plaintiff,

Case No. 1:16-cv-338

vs.

JURY TRIAL DEMANDED

CIMOLAI TECHNOLOGY S.p.A.,
IDEYA, LLC, and
FABRIZIO ALFIER

Defendants.

COMPLAINT

Plaintiff Marine Travelift, Inc. (“MTI”), by and through its attorneys, Michael Best & Friedrich LLP and O’Neil Cannon Hollman DeJong & Laing, S.C., states for its Complaint against Defendants Cimolai Technology S.p.A. (“Cimolai”), Ideya, LLC (“Ideya”), and Fabrizio Alfier the following:

PARTIES

1. MTI is a Wisconsin corporation with its principal place of business located at 49 East Yew Street, Sturgeon Bay, Wisconsin 54235 and is in the business of making and selling, *inter alia*, mobile marine and industrial lifting equipment.

2. Cimolai is an Italian corporation with its principal place of business located at Via dell’Industria e dell’Artigianato, 17, 35010 Carmignano di Brenta (PD), Italy and is in the business of making and selling, *inter alia*, mobile marine and industrial lifting equipment.

3. Ideya is a Florida limited liability company with its principal place of business located at 650 North Rio Vista Boulevard, Fort Lauderdale, Florida 33301 and promotes the sale of Cimolai mobile marine and industrial lifting equipment in the United States.

4. Mr. Alfier is an individual residing at 650 North Rio Vista Boulevard, Fort Lauderdale, Florida 33301, is the owner and Chief Executive Officer of Ideya, and was Cimolai's sales agent in the United States at least from 2011 through 2015.

JURISDICTION AND VENUE

5. This is an action for patent infringement in violation of 35 U.S.C. § 271.

6. The matter in controversy in this action exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between citizens of different states.

7. On information and belief, Defendants regularly solicit and transact business in the State of Wisconsin and in this District by making, using, selling, and/or offering to sell products, including infringing products such as those identified in this Complaint, within this District.

8. At a minimum, Defendants place products, including infringing products such as those identified in this Complaint, into the stream of commerce knowing that such products will be made, used, sold, and/or offered for sale within the State of Wisconsin and this District.

9. This Court has jurisdiction over the subject matter of this action based on 28 U.S.C. §§ 1331, 1332, and 1338(a).

10. This Court has personal jurisdiction over Defendants based on Defendants' contacts with the State of Wisconsin and this District.

11. Venue is proper in this judicial district based on 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b).

BACKGROUND FACTS

12. On April 21, 2009, the United States Patent and Trademark Office (“USPTO”) duly and legally issued U.S. Patent No. 7,520,362 (“the ’362 patent”), entitled “STEERING SYSTEM FOR CRANE,” to Jerry J. Wierzba and Timothy J. Minkin. Attached hereto as **Exhibit A** is a true and correct copy of the ’362 patent.

13. On September 21, 2010, the USPTO duly and legally issued U.S. Patent No. 7,798,274 (“the ’274 patent”), entitled “STEERING SYSTEM FOR CRANE,” to Jerry J. Wierzba and Timothy J. Minkin. Attached hereto as **Exhibit B** is a true and correct copy of the ’274 patent.

14. Mr. Wierzba and Mr. Minkin assigned the entire right, title, and interest to the ’362 and ’274 patents (collectively, the “Patents-in-Suit”), including all rights to bring actions and recover for all infringements thereof, to MTI.

15. MTI has owned the Patents-in-Suit throughout the period of Defendants’ infringing acts and still owns the Patents-in-Suit.

16. MTI has complied with the statutory requirement of placing notice of the Patents-in-Suit on its products that embody the invention(s) thereof.

17. Defendants had knowledge of the Patents-in-Suit prior to the filing of this Complaint.

18. Defendants make, use, offer to sell, and/or sell Cimolai mobile marine and industrial lifting equipment having an all-wheel electronic steering system within the United States.

19. On information and belief, Defendants import into the United States the component parts required for the assembly of Cimolai mobile marine and industrial lifting

equipment having an all-wheel electronic steering system. The equipment is then assembled, tested, and/or demonstrated within the United States by Cimolai and individuals under Cimolai's supervision, direction, and/or control.

20. On information and belief, Cimolai provides guidance and instructions to Defendants' customers that have purchased Cimolai mobile marine and industrial lifting equipment with an all-wheel electronic steering system and encourages them to use the equipment and steering system. Defendants' customers in the United States that have purchased Cimolai mobile marine and industrial lifting equipment with an all-wheel electronic steering system use the equipment and steering system within the United States.

21. The Cimolai mobile marine and industrial lifting equipment, including but not limited to Cimolai's MBH-model boat hoists, having an all-wheel electronic steering system such as that sold to Harbor Towne Marina ("Accused Machines") embody one or more claims of the '362 patent. The all-wheel electronic steering systems of the Accused Machines ("Accused Systems") further embody one or more claims of the '274 patent.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,520,362

22. MTI re-alleges and incorporates by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

23. Defendants have directly infringed MTI's exclusive rights in the '362 patent by making, using, offering to sell, and/or selling Accused Machines within the United States that embody one or more claims of the '362 patent, including but not limited to at least claims 1, 2, and 33 of the '362 patent.

24. Customers of Defendants, including but not limited to marinas and shipyards, have directly infringed MTI's exclusive rights in the '362 patent by using Accused Machines

within the United States that embody one or more claims of the '362 patent, including but not limited to at least claims 1, 2, and 33 of the '362 patent.

25. On information and belief, service technicians hired, retained, or otherwise provided by Cimolai have directly infringed MTI's exclusive rights in the '362 patent by making and using Accused Machines within the United States that embody one or more claims of the '362 patent, including but not limited to at least claims 1, 2, and 33 of the '362 patent.

26. Defendants have contributorily infringed MTI's exclusive rights in the '362 patent by, for example, offering to sell and/or selling the Accused Machines to customers within the United States. The Accused Machines offered for sale and/or sold by Defendants to customers within the United States are material to practicing the invention(s) of the '362 patent and have no substantial uses other than those that infringe the '362 patent. For example, the Accused Machines embodying claims 1, 2, and 33 of the '362 patent are purchased containing all elements of those apparatus claims such that any use by Defendants' customers directly infringes those claims. There is no non-infringing use.

27. Cimolai has also induced infringement of MTI's exclusive rights in the '362 patent. For instance, on information and belief, Cimolai instructs, directs, and encourages Defendants' customers in the United States, including but not limited to marinas and shipyards, that have purchased the Accused Machines to use the Accused Machines in a manner that directly infringes MTI's exclusive rights in the '362 patent. On information and belief, Cimolai further instructs, directs, and encourages other entities and individuals in the United States, including but not limited to service technicians, to assemble the Accused Machines and perform tests using the Accused Machines in a manner that directly infringes MTI's exclusive rights in the '362 patent.

28. On information and belief, Defendants' acts of direct and indirect infringement have been willful, deliberate, and knowingly performed with reckless disregard for MTI's exclusive rights in the '362 patent and will continue unless preliminarily and permanently enjoined by this Court.

29. As a direct and proximate result of Defendants' acts of direct and indirect infringement, MTI has suffered injury and damage, which continues to accrue, in an amount to be determined at trial.

30. Unless preliminarily and permanently enjoined by this Court, Defendants' acts of direct and indirect infringement will cause MTI further injury and damage, including immediate and irreparable harm that cannot be adequately compensated by monetary damages.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 7,798,274

31. MTI re-alleges and incorporates by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

32. Defendants have directly infringed MTI's exclusive rights in the '274 patent by making, using, offering to sell, and/or selling Accused Systems within the United States that embody one or more claims of the '274 patent, including but not limited to claim 21.

33. Customers of Defendants, including but not limited to marinas and shipyards, have directly infringed MTI's exclusive rights in the '274 patent by using Accused Systems within the United States that embody one or more claims of the '274 patent, including but not limited to claim 21.

34. On information and belief, service technicians hired, retained, or otherwise provided by Cimolai have directly infringed MTI's exclusive rights in the '274 patent by making

and using Accused Systems within the United States that embody one or more claims of the '274 patent, including but not limited to claim 21.

35. Defendants have contributorily infringed MTI's exclusive rights in the '274 patent by, for example, offering to sell and/or selling Accused Systems to customers within the United States. The Accused Systems offered for sale and/or sold by Defendants to customers within the United States are material to practicing the invention(s) of the '274 patent and have no substantial uses other than those that infringe the '274 patent. For example, the Accused Systems embodying claim 21 of the '274 patent are purchased containing all elements of that system claim such that any use by Defendants' customers directly infringes that claim. There is no non-infringing use.

36. Cimolai has also induced infringement of MTI's exclusive rights in the '274 patent. For instance, on information and belief, Cimolai instructs, directs, and encourages Defendants' customers in the United States, including but not limited to marinas and shipyards, that have purchased the Accused Systems to use the Accused Systems in a manner that directly infringes MTI's exclusive rights in the '274 patent. On information and belief, Cimolai further instructs, directs, and encourages other entities and individuals in the United States, including but not limited to service technicians, to assemble the Accused Systems and perform tests using the Accused Systems in a manner that directly infringes MTI's exclusive rights in the '274 patent.

37. On information and belief, Defendants' acts of direct and indirect infringement have been willful, deliberate, and knowingly performed with reckless disregard for MTI's exclusive rights in the '274 patent and will continue unless preliminarily and permanently enjoined by this Court.

38. As a direct and proximate result of Defendants' acts of direct and indirect infringement, MTI has suffered injury and damage, which continues to accrue, in an amount to be determined at trial.

39. Unless preliminarily and permanently enjoined by this Court, Defendants' acts of direct and indirect infringement will cause MTI further injury and damage, including immediate and irreparable harm that cannot be adequately compensated by monetary damages.

JURY DEMAND

MTI demands a trial by jury on all matters and issues triable by a jury.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Marine Travelift, Inc. respectfully requests that this Court grant the following relief:

- A. A Judgment in favor of MTI on its claims of patent infringement;
- B. A Judgment that Defendants have willfully and deliberately committed acts of patent infringement;
- C. An Order preliminarily and permanently enjoining Defendants and their respective officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with them from manufacturing, using, offering to sell, and selling the Accused Machines, Accused Systems, and any other infringing products within the United States and from importing the Accused Machines, Accused Systems, any other infringing products, and their component parts into the United States;

- D. An Order directing Defendants to surrender for destruction all infringing products and manufacturing supplies for such products that are in Defendants' possession or control in the United States or in transit to the United States.
- E. An Order directing Defendants to file with this Court and serve on MTI's attorneys, within thirty (30) days after the date of entry of any injunction, a report in writing and under oath setting forth in detail the manner and form in which they have complied with the injunction;
- F. An award of actual monetary damages that MTI has incurred as a result of Defendants' infringement, in an amount to be determined at trial but in no event less than a reasonable royalty;
- G. An Order trebling MTI's damages and awarding MTI its attorneys' fees, costs, and disbursements incurred in prosecuting this action; and
- H. An award to MTI of such other relief as the Court deems just and equitable.

Dated this 21st day of March, 2016.

MICHAEL BEST & FRIEDRICH LLP

By: /s/ John C. Scheller

John C. Scheller, SBN 1031247
Ian A.J. Pitz, SBN 1031602
Kenneth M. Albridge III, SBN 1078384
MICHAEL BEST & FRIEDRICH LLP
One South Pinckney Street, Suite 700
P.O. Box 1806
Madison, WI 53701-1806
Phone: 608.257.3501
Fax: 608.283.2275
Email: jcscheller@michaelbest.com
iapitz@michaelbest.com
kmalbridge@michaelbest.com

Miriam S. Fleming, SBN 1024667
Rachel N. Bach, SBN 1092048
MICHAEL BEST & FRIEDRICH LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202-4108
Phone: 414.271.6560
Fax: 414.277.0656
Email: msfleming@michaelbest.com
rnbach@michaelbest.com

Patrick G. McBride, SBN 1024920
Grant C. Killoran, SBN 1015503
Gregory W. Lyons, SBN 1000492
O'NEIL CANNON HOLLMAN DEJONG
& LAING, S.C.
111 East Wisconsin Avenue, Suite 1400
Milwaukee, WI 53202
Phone: 414.276.5000
Fax: 414.276.6581
Email: patrick.mcbride@wilaw.com
grant.killoran@wilaw.com
greg.lyons@wilaw.com

Attorneys for Plaintiff Marine Travelift, Inc.