

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

McAFEE ENTERPRISES, INC.

Plaintiff,

vs.

YAMAHA CORPORATION OF AMERICA

Defendant.

**Case No.: 15-cv-9555**

**Judge Harry D. Leinenweber**

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**AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff McAfee Enterprises, Inc. (“McAfee”), by and through its undersigned attorneys, for its complaint against Yamaha Corporation of America (“Yamaha”), hereby alleges as follows:

**NATURE OF LAWSUIT**

1. This action involves claims for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. § 1338(a).

**THE PARTIES**

2. McAfee is corporation organized under the laws of the state of Tennessee and having offices at 205 Mitchell Road, Portland, Tennessee 37148.

3. McAfee owns all right, title and interest in, and has standing to sue for infringement of United States Patent No. 6,545,207 (“the ‘207 patent”) entitled “Electric Drum Stroke Counting Machine,” issued April 8, 2003. A copy of the ‘207 patent is attached as Exhibit A.

4. Defendant Yamaha is California Corporation with a principal place of business located at 6600 Orangethorpe Avenue, Buena Park, California 90620. Yamaha sells and offers for sale products that infringe the '207 patent at the Guitar Center retail store located at 2633 North Halsted St., Chicago, Illinois 60614, and transacts business and has offered to provide and/or provided products in this judicial district and throughout the State of Illinois that infringe claims of the '207 patent.

5. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b).

### **COUNT I**

#### **DEFENDANT YAMAHA'S MANUFACTURE AND SALE OF THE YAMAHA DTX400K AND DTX500 SERIES ELECTRONIC DRUM KITS**

6. Defendant Yamaha has infringed claims of the '207 patent by making, using, selling, offering for sale and/or importing the Yamaha DTX400K and DTX500 Series Electronic Drum Kits.

7. The Yamaha DTX400K and DTX 500 Series Electronic Drum Kits include a feature known as "Fast Blast."

8. The Fast Blast feature of the Yamaha DTX400K and DTX 500 Series Electronic Drum Kits can count the amount of drum pad hits within a fixed time.

9. The Yamaha DTX400K and DTX 500 Series Electronic Drum Kits include a strike sensor that detects strikes on a drum pad surface.

10. The Yamaha DTX400K and DTX 500 Series Electronic Drum Kits include a strike counter that can count the number of strikes on a drum pad surface.

11. The Yamaha DTX400K and DTX 500 Series Electronic Drum Kits include a control panel with ten lighted and numbered buttons numbered one through ten.

12. The ten lighted and numbered buttons of the control panel of the Yamaha DTX400K and DTX 500 Series Electronic Drum Kits can present the total number of strikes on a drum pad within a set period of time.

13. The Yamaha DTX400K and DTX 500 Series Electronic Drum Kits include an audio count information presenter that can present the total number of strikes recorded within a set period of time.

14. The audio count information presenter of the Yamaha DTX400K and DTX 500 Series Electronic Drum Kits can present the total number of strikes recorded within a set period of time by speaking the number of strikes after the elapsed period of time.

15. The Yamaha DTX400K and DTX 500 Series Electronic Drum Kits include a timer that counts a period of time and stops the timer after a specific period of time.

16. The Yamaha DTX400K and DTX 500 Series Electronic Drum Kits include a time period selector that allows a user to select the period of time that strikes on the drum pad surface are counted.

17. The ten lighted and numbered buttons of the control panel of the Yamaha DTX400K and DTX 500 Series Electronic Drum Kits indicate how much time is left for recording drum strokes by successively going out from right to left with the recorded time period ending when all lights are turned off.

18. Yamaha has sold and offered for sale the Yamaha DTX400K and DTX 500 Series Electronic Drum Kits with knowledge of the '207 patent.

19. Yamaha has sold and offered for sale the Yamaha DTX400K and DTX 500 Series Electronic Drum Kits despite an objectively high likelihood that its actions constituted

infringement of a valid patent, and such likelihood was known or so obvious that it should have been known by Guitar Center.

20. Yamaha has willfully infringed claims of the '207 patent with its sales and offers for sale of the Yamaha DTX400K and DTX 500 Series Electronic Drum Kit.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs ask this Court to enter judgment against the Defendants, and against their subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- A. An award of damages adequate to compensate McAfee for the infringement that has occurred, together with prejudgment interest from the date that Defendants' infringement of the '207 patent began;
- B. Treble damages as permitted under 35 U.S.C. § 284;
- C. A finding that this case is exceptional and an award to McAfee of its attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction prohibiting further infringement of the '207 patent;  
and
- E. Such other and further relief as this Court or a jury may deem proper and just.

**JURY DEMAND**

McAfee demands a trial by jury on all issues presented in this Complaint.

Dated: January 29, 2016

Respectfully submitted,

/s/ Anthony E. Dowell

Anthony E. Dowell

[aedowell@dowellip.com](mailto:aedowell@dowellip.com)

DOWELL IP

333 W. North Ave #341

Chicago, Illinois 60610

Phone: (312) 291-8351

**ATTORNEY FOR PLAINTIFF  
McAFEE ENTERPRISES, INC.**