

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Mr. Mathew A. McPherson

Plaintiff,

COMPLAINT

v.

Escalade Sports, an Indiana corporation  
And its wholly owned subsidiary  
Trophy Ridge

Defendant.

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Mr. Mathew A. McPherson for this complaint states and alleges as follows:

PARTIES

1. Mr. Mathew A. McPherson resides at 19055 Incline Road, Route 2, P.O. 58, Norwalk, WI 54648
2. Mr. Mathew A. McPherson is the owner of US Patent No. 6,382,201 to a Bow Vibration Damper (hereafter the '201 patent), which is attached hereto and is incorporated by reference herein as **Exhibit 1**. The '201 patent was duly and legally issued to Mathew McPherson, and is presumed valid under 35 U.S.C. §282.
3. Upon information and belief, Defendant Escalade Sports is an Indiana corporation, having its principal place of business at 817 Maxwell Avenue, Evansville, Indiana 47711.
4. Upon information and belief, Defendant Trophy Ridge is a wholly owned subsidiary of Escalade Sports.

JURISDICTION AND VENUE

5. This is an action for patent infringement pursuant to the laws as set forth in Title 35 of the United States Code. Jurisdiction in this Court is based on 28 U.S.C. §§ 1331, 1338, and supplemental jurisdiction under 28 U.S.C. § 1367.
6. Mr. Mathew A. McPherson resides in the State of Wisconsin and defendant Escalade Sports is a corporation incorporated under the laws of the state of Indiana and having its principal place of business in a State other than Minnesota. The matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. § 1332.
7. Upon information and belief, Escalade Sports, through its wholly owned subsidiary Trophy Ridge, sells its products in numerous stores, for example at Gander Mountain in Eden Prairie Minnesota.
8. Upon information and belief, the Trophy Ridge Matrix GS sight, the Mantis GS sight, the Dropzone arrow rest and the Ridge Hunter two-piece and one piece quivers are all being sold in Minnesota, for example at Gander Mountain in Eden Prairie Minnesota.
9. Venue is proper in this judicial district under 28 U.S.C. §§1391(b), (c), and 1400(b).

FACTUAL BACKGROUND

10. Mr. Mathew A. McPherson, as owner of United States Patent 6,382,201, through his non-exclusive licensee under the '201 patent, Mathews Inc., verbally licensed Trophy Ridge to use his patented harmonic damper technology on Trophy Ridge accessory products, for a limited duration of time. The license was extended verbally several times from its inception through 2006.
11. On February 14, 2007, Escalade Sports announced that it purchased substantially all of the assets of Trophy Ridge LLC (see attached **Exhibit 2**), thereby changing the corporate

entity of Trophy Ridge and automatically terminating the verbal license to Trophy Ridge LLC.

12. Shortly after the acquisition of Trophy Ridge by Escalade, on May 1, 2007, Mathew McPherson, through its non-exclusive licensee Mathews Inc., confirmed termination of its verbal license under its '201 patent (see attached **Exhibit 3**).
13. Mathew McPherson and Escalade, through its wholly owned subsidiary Trophy Ridge have not been able to come to terms for a new license under the '201 patent, post-acquisition by Escalade, and therefore Trophy Ridge has not been licensed under the '201 patent to use harmonic damper technology on its archery accessory products since the date of the acquisition, which is believed to be February 12, 2007.
14. Trophy Ridge uses the harmonic damper technology on at least the following archery bow accessories: the Trophy Ridge Matrix GS sight; the Mantis GS sight; the Dropzone arrow rest, and the Ridge Hunter two-piece and one piece quivers.
15. Trophy Ridge has indicated in its previous product literature that its DHD (Dual Harmonic Damper) technology is licensed under US Patent 6382201 in connection with is archery accessories (see attached **Exhibits 4 and 5**).
16. Trophy Ridge's 2008 catalog still offers for sale archery accessory products with DHD technology, for example the Matrix GS on page 3, the Mantis GS on page 5, the Dropzone on pages 10 and 11, and the Ridge Hunter on page 15 (see attached **Exhibit 6**).

#### INFRINGEMENT OF THE '201 PATENT

17. Mr. Mathew A. McPherson restates and re-alleges the allegations set forth in paragraphs 1 through 16 and incorporates them by reference.

18. Upon information and belief, Escalade Sports, through its wholly owned subsidiary Trophy Ridge, has infringed and is still infringing one or more of claims 13-15, 29-32, 34-35 and 37 of the '201 patent because it is manufacturing, using and selling a dampening device for use with an archery bow, incorporating its DHD technology.
19. Escalade Sports is on notice of the '201 patent, having held itself out as being licensed under the '201 patent, and is using the technology of the '201 patent knowing that Trophy Ridge is no longer licensed to do so, and therefore its infringement of the '201 patent is willful.

DEMAND FOR RELIEF

WHEREFORE, plaintiff asks judgment:

1. For an accounting and damages against defendants for all damages suffered by plaintiff by reason of infringement of the '201 patent, including lost profits, but in any event no less than a reasonable royalty, together with interest and costs pursuant to 35 U.S.C. § 284;
2. For damages in an amount equal to three times the damages found or assessed, to compensate plaintiff for the willful, deliberate and intentional acts of infringement by defendants, pursuant to 35 U.S.C. § 284;
3. For an award of reasonable attorney fees against defendants pursuant to 35 U.S.C. § 285;
4. For a permanent injunction restraining and enjoining defendants, defendants' agents, servants, employees, officers, and those persons or corporations in active concert or participation with defendant, from further infringement of the '201 patent pursuant to 35 U.S.C. §283, and

5. For such other and further relief as may be just and proper.

JURY DEMAND

Mr. McPherson hereby demands a trial by jury of all issues so triable.

Dated: May 30, 2008

s/ Richard A. Arrett

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