

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

LIPPERT COMPONENTS)	
MANUFACTURING, INC., and)	
BACKSAVER INTERNATIONAL, INC.)	CASE NO. 3:16-cv-00264-TLS-CAN
<i>d/b/a</i> GORILLA-LIFT)	
)	
<i>Plaintiffs,</i>)	
)	JURY DEMAND
v.)	
)	
MORRYDE INTERNATIONAL, INC., and)	
MOR/RYPDE INC.,)	
)	
<i>Defendants.</i>)	
)	
)	
)	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Pursuant to Fed. R. Civ. P. 15(a)(1)(B), Plaintiffs, Lippert Components Manufacturing, Inc. (“Lippert”) and Backsaver International, Inc. *doing business as* Gorilla-Lift (“Backsaver”) (collectively, “Plaintiffs”), file this First Amended Complaint for Patent Infringement of U.S. Patent No. 6,550,840 (“840 Patent” or the “Asserted Patent”) against Defendants MORryde International, Inc. and MOR/ryde Inc. (collectively, the “Defendants”), and allege as follows:

I. THE PARTIES

1. Plaintiff Lippert is a Delaware corporation with its principal place of business at 3501 County Road 6 E., Elkhart, IN, 46514.

2. Plaintiff Backsaver is a Kentucky corporation having a mailing address of P.O. Box 85, Somerset, KY, 42502.

3. Plaintiff Lippert is in the business of selling various products, including components for recreational vehicles and trailers.

4. Plaintiff Backsaver is in the business of selling various products, including the Gorilla-Lift® Trailer Tailgate Lift Assist.

5. On information and belief, Defendant MORryde International, Inc. is an Indiana corporation with its principal place of business at 1966 Sterling Ave., Elkhart, IN, 46516.

6. On information and belief, Defendant MOR/ryde, Inc. is an Indiana corporation with a mailing address of P.O. Box 579, Elkhart, IN, 46515.

7. On information and belief, Defendants are, and have been, engaged in the business of making and selling components for recreational vehicles and trailers.

II. JURISDICTION AND VENUE

8. Plaintiffs hereby reallege and incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1–7, above.

9. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. This Court has general personal jurisdiction over the Defendants. On information and belief, the Defendants are incorporated in the State of Indiana and/or have a principal place of business in the State of Indiana and the Northern District of Indiana.

11. Venue is proper in the Northern District of Indiana pursuant to 28 U.S.C. §§ 1391 and 1400(b).

III. FACTUAL BACKGROUND

Plaintiffs hereby reallege and incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1–11, above.

A. The Asserted Patent

12. The '840 Patent, entitled "Tailgate Lift Assembly," was duly and legally issued by the United States Patent & Trademark Office on April 22, 2003 to inventor David Rayburn. A true and accurate copy of the '840 Patent is attached hereto as Exhibit A.

13. Plaintiff Backsaver is the owner by assignment of all rights, title, and interest in the '840 Patent.

14. On February 3, 2016, Plaintiff Lippert became the exclusive licensee of the '840 Patent for use in recreational vehicles. Lippert has remained the exclusive licensee of the '840 Patent for use in recreational vehicles at all times from February 3, 2016 through the present. Lippert has the right to sue for any infringement of the '840 Patent in the recreational vehicle industry.

B. Plaintiffs' Products that Embody the Asserted Patent

15. Plaintiff Lippert sells and/or sold products in the United States that embody subject matter claimed in the '840 Patent, including, but not limited to, the Fast Ramp door, a product with Gorilla-Lift® technology (the "Lippert Products").

16. Plaintiff Backsaver sells and/or sold products in the United States that embody subject matter claimed in the '840 Patent, including, but not limited to, the Gorilla-Lift® 2-Sided Tailgate Lift Assist, a product with Gorilla-Lift® technology (the "Backsaver Products").¹

C. Defendants' Accused Product

17. On information and belief, Defendants are infringing the '840 Patent directly, jointly, contributorily, and/or by inducement, by, without authority, making, using, selling, offering for sale, and/or importing into the United States, including within the State of Indiana

¹ Hereinafter, the Backsaver Products and the Lippert Products are collectively referred to as "Plaintiffs' Products."

and the Northern District of Indiana, trailer and/or recreational vehicle components that embody claims in the '840 Patent. Specifically, on information and belief, Defendants are infringing the '840 Patent by making, using, selling, offering for sale, and/or importing into the United States at least the Zero Gravity™ Ramp Door (the “Accused Product”) (an example of which is shown in Exhibit B, attached).

D. Defendants’ Knowledge and Willful Infringement of the Asserted Patent

18. On information and belief, since at least 2015, Defendants’ infringement has been, and continues to be, willful and deliberate.

19. On information and belief, Defendants, as part and in the course of their business activities, regularly and actively monitor the trailer and/or recreational vehicle component industry and competitive intellectual property, including patents, such as, for example, the '840 Patent. On information and belief, Defendants knew of the '840 Patent, listed at <http://www.lci1.com/patent-list> and <https://www.gorilla-lift.com/gorillalift.php>, and knew that the Plaintiffs’ Products practiced the '840 Patent.

20. Therefore, since at least 2015, Defendants have known and know of the '840 Patent, and they have known and know of the subject matter disclosed and claimed therein.

21. Plaintiffs have suffered and will continue to suffer damages from Defendants’ acts of infringement complained of herein.

IV. COUNT I: INFRINGEMENT OF U.S. PATENT NO. 6,550,840

22. Plaintiffs hereby reallege and incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1–21, above.

23. Each of the Defendants has directly infringed—either individually or as part of a joint enterprise or through the exercise of direction and control over at least one other Defendant or one or more, for example, installers of, contractors for, and/or purchasers of (collectively,

“Third Parties,” and, individually, a “Third Party”) the Accused Product—and is still directly infringing at least Claim 1 of the ’840 Patent, literally or under the doctrine of equivalents, by making, using, offering to sell, selling, and/or importing the Accused Product. Defendants will continue to infringe at least Claim 1 of the ’840 Patent unless enjoined by this Court.

24. Defendants directly infringe at least Claim 1 of the ’840 Patent, for example, because:

- (a) The Accused Product satisfies the limitation of having “a housing having a pre-determined length”;
- (b) The Accused Product satisfies the limitation of having “a spring having a first and a second end and anchored to said housing at said first end”;
- (c) The Accused Product satisfies the limitation of having “a cable having a first and a second end, said first end affixed to said second end of said spring and capable of stretching said spring, said cable extending substantially through said housing”; and
- (d) The Accused Product satisfies the limitation of having “at least one roller affixed to said housing, said cable extending around said at least one roller, said housing surrounding said spring from said housing first end to said cable first end and exposing said at least one roller.”

25. On information and belief, each of the Defendants has had knowledge of the ’840 Patent at least since 2015.

26. Each of the Defendants, since at least 2015, has actively induced one or more Third Parties to directly infringe—such direct infringement occurring when, for example, such Third Parties make, use, offer to sell, or sell recreational vehicles and/or trailers incorporating the

Accused Product—at least Claim 1 of the '840 Patent by, among other things, providing instructions, manuals, and technical assistance relating to set up, use, operation, and maintenance of the Accused Product incorporated within, for example, recreational vehicles and/or trailers. On information and belief, since at least 2015, each of the Defendants has done so with knowledge, or with willful blindness of the fact, that the induced acts constitute infringement of at least Claim 1 of the '840 Patent. Each of the Defendants has intended and intends to cause infringement by these Third Parties.

27. The Accused Product may be used in practicing the invention(s) of the '840 Patent and constitutes a material part of the invention(s) of the '840 Patent. On information and belief, since at least 2015, each of the Defendants has known, or has been willfully blind to the fact, that the Accused Product is especially made and/or adapted for use with and/or on trailers and/or recreational vehicles sold by Third Parties, as claimed in the '840 Patent, thereby contributing to the direct infringement of these Third Parties. The Accused Product is neither a staple article of commerce nor is it suitable for substantial noninfringing uses.

V. CLAIMS INCIDENT TO THE DEFENDANTS' INFRINGEMENT

28. Plaintiffs hereby reallege and incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1–27, above.

29. On information and belief, the Defendants will continue to infringe the '840 Patent, causing immediate and irreparable harm to Plaintiffs, unless this Court enjoins and restrains the Defendants' activities.

30. The Defendants' infringement of the '840 Patent has been, and is, willful and deliberate, making this case exceptional within the meaning of 35 U.S.C. § 285 and justifying treble damages pursuant to 35 U.S.C. § 284.

31. In addition to the Defendants' knowledge of the '840 Patent, as described in paragraphs 18–21 and 25–27, above, prior to the filing of this action Plaintiffs complied with the requirements of 35 U.S.C. § 287(a) with respect to the '840 Patent.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, Lippert Components Manufacturing, Inc. and Backsaver International, Inc. *doing business as* Gorilla-Lift, respectfully request that the Court enter judgment in its favor and against Defendants, and provide Plaintiffs the following relief:

- A. Order, adjudge, and decree that U.S. Patent No. 6,550,840 is valid, enforceable, and infringed by Defendants;
- B. Enter a permanent injunction against Defendants enjoining them, their directors, officers, agents, employees, successors, subsidiaries, assigns, and all persons acting in privity or in concert or participation with Defendants from making, using, selling, or offering for sale in the United States, or importing into the United States, any and all products and/or services embodying the patented inventions claimed in the '840 Patent;
- C. Award Plaintiffs damages for patent infringement pursuant to 35 U.S.C. § 284, and pre- and post-judgment interest as allowed by law;
- D. Order, adjudge, and decree that Defendants' infringement of the '840 Patent has been deliberate and willful, and award Plaintiffs treble damages under 35 U.S.C. § 284;
- E. Find that this case is "exceptional" under 35 U.S.C. § 285, and award Plaintiffs their costs and reasonable attorney's fees as provided in 35 U.S.C. § 285; and
- F. Award such other and further relief as the Court deems just and proper.

VII. REQUEST FOR TRIAL BY JURY

Plaintiffs respectfully request that all issues so triable be tried by and before a jury.

Dated: July 15, 2016

Respectfully submitted,

/s/ Andrew M. McCoy

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*Attorneys for Plaintiffs, Lippert Components
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Inc. doing business as Gorilla-Lift*

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2016, I caused the foregoing document to be filed electronically with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following attorneys of record:

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/s/ Andrew M. McCoy