

1 RUSS, AUGUST & KABAT
Marc A. Fenster, CA SB # 181067
2 Email: mfenster@raklaw.com
Neil A. Rubin, CA SB # 250761
3 Email: nrubin@raklaw.com
Arka D. Chatterjee, CA SB # 268546
4 Email: achatterjee@raklaw.com
12424 Wilshire Boulevard, 12th Floor
5 Los Angeles, California 90025
Telephone: (310) 826-7474
6 Facsimile: (310) 826-6991

7 **Attorneys for Plaintiff**
8 **MAXON INDUSTRIES, INC.**

9
10 **IN THE UNITED STATE DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 MAXON INDUSTRIES, INC. D/B/A
14 MAXON LIFT CORP.

15 Plaintiff,

16 vs.

17 PALFINGER LIFTGATES, LLC,

18 Defendant.
19

Case No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

20
21 **COMPLAINT FOR PATENT INFRINGEMENT**

22 Maxon Industries, Inc., d.b.a. Maxon Lift Corp. (“Maxon” or “Plaintiff”), brings this Complaint
23 for patent infringement against Palfinger Liftgates, LLC., (“Palfinger” or “Defendant”) and
24 hereby states as follows:

25 **NATURE OF THE ACTION**

26 1. This is an action for patent infringement of United States Patent Nos. 8,234,046
27 (the “046 Patent”); 8,521,370 (the “370 Patent”); and 8,706,361 (the “361 Patent”)
28

RUSS, AUGUST & KABAT

1 (collectively, “Asserted Patents”) under the Patent Laws of the United States, 35 U.S.C. § 1, *et*
2 *seq.*, and seeking damages and injunctive and other relief under 35 U.S.C. § 281, *et seq.*

3 **PARTIES**

4 2. Maxon is a corporation operating and existing under the laws of California with
5 its principal place of business at 11921 Slauson Avenue, Santa Fe Springs, California 90670.
6 Maxon is actively involved in the manufacture and sale of lift gates that that embody the claimed
7 invention in the Asserted Patents.

8 3. Upon information and belief, Defendant Palfinger is a corporation operating and
9 existing under the laws of Delaware, with places of business in Cerritos, California and Council
10 Bluffs, Iowa. Upon information and belief, Palfinger uses as its agent for service of process the
11 Corporate Creations Network, located at 3411 Silverside Rd, Suite 104 Rodney Building,
12 Wilmington, Delaware 19810. Upon further information and belief, Palfinger is engaged in the
13 business of manufacturing and selling lift gates.

14 **JURISDICTION AND VENUE**

15 4. This is a complaint for patent infringement under 35 U.S.C. § 271. This Court
16 has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

17 5. Upon information and belief, this Court has personal jurisdiction over Defendant
18 because Defendant is located in California, has regularly done or solicited business, or engaged
19 in a persistent course of conduct in California, has maintained continuous and systematic
20 contacts with California, and has purposefully availed itself of the privileges of doing business in
21 California.

22 6. Venue is proper in this judicial district as to Defendant pursuant to 28 U.S.C.
23 §§1391 and 1400(b) because Defendant is subject to personal jurisdiction in this judicial district,
24 has transacted business in this district, and has committed and/or induced to acts of patent
25 infringement in this judicial district.

26 **THE PATENTS**

27 7. On July 31, 2012, the United States Patent and Trademark Office (“USPTO”)
28 duly and lawfully issued the ’046 Patent, titled “Method and Apparatus for Selectively Activated

RUSS, AUGUST & KABAT

1 Powered Actuation of a Hydraulic Drive System.” A true and correct copy of the ’046 Patent is
2 attached hereto as Exhibit A.

3 8. The ’046 Patent is valid and enforceable.

4 9. Maxon is the owner and assignee of the ’046 Patent and holds the exclusive right
5 to sue and recover damages for infringement of the ’046 Patent.

6 10. In part, the ’046 Patent covers a hydraulic lift gate system attached to a vehicle, in
7 which a mode of lowering the lift gate by application of hydraulic power can be selectively
8 enabled during a mode in which the lift gate is being lowered by the force of gravity. In part, the
9 ’046 Patent also covers a method for controlling a hydraulic lift gate attached to a vehicle such
10 that the mode of lowering the lift gate by application of hydraulic power is activated upon
11 sensing a condition during a mode in which the lift gate is being lowered by the force of gravity.

12 11. The ’046 Patent is valid and enforceable.

13 12. On August 27, 2014, the United States Patent and Trademark Office (“USPTO”)
14 duly and lawfully issued the ’370 Patent, titled “Method and Apparatus for Selectively Activated
15 Powered Actuation of a Hydraulic Drive System.” A true and correct copy of the ’370 Patent is
16 attached hereto as Exhibit B.

17 13. Maxon is the owner and assignee of the ’370 Patent and holds the exclusive right
18 to sue and recover damages for infringement of the ’370 Patent.

19 14. In part, the ’370 Patent covers a method for controlling a hydraulic lift gate
20 attached to a vehicle such that the mode of lowering the lift gate by the force of gravity is
21 activated upon sensing a condition (such as a manual override input by an operator) during a
22 mode in which the lift gate is being lowered by hydraulic power.

23 15. On April 22, 2014, the United States Patent and Trademark Office (“USPTO”)
24 duly and lawfully issued the ’361 Patent, titled “Method and Apparatus for Selectively Activated
25 Powered Actuation of a Hydraulic Drive System.” A true and correct copy of the ’361 Patent is
26 attached hereto as Exhibit C.

27 16. Maxon is the owner and assignee of the ’361 Patent and holds the exclusive right
28 to sue and recover damages for infringement of the ’361 Patent.

RUSS, AUGUST & KABAT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

17. In part, the '361 Patent covers a method for controlling a hydraulic lift gate attached to a vehicle such that the mode of lowering the lift gate by the force of gravity is activated upon sensing a condition (such as a manual override input by an operator) during a mode in which the lift gate is being lowered by hydraulic power.

COUNT I: INFRINGEMENT OF THE '046 PATENT

18. Maxon realleges and incorporates by reference paragraphs 1-17.

19. Defendant has been and still is directly infringing at least claim 1 of the '046 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, exporting, and/or importing, without license or authority, lift gate systems in which a mode of lowering the lift gate by application of hydraulic power can be selectively enabled during a mode in which the lift gate is being lowered by the force of gravity. Defendant also has been and still is directly infringing at least claim 9 of the '046 patent, literally and under the doctrine of equivalents, by performing a method for controlling a hydraulic lift gate attached to a vehicle such that the mode of lowering the lift gate by application of hydraulic power is activated upon sensing a condition during a mode in which the lift gate is being lowered by the force of gravity. For example, lift gate systems incorporating lift gate model nos. ILD Plus 35, ILD Plus 45, ILD Plus 55, ILD Plus 66, and ILFP units including without limitation the ILFP Slide Units 30 and 40 infringe at least claim 1 of the '046 patent, and activating a mode of lowering one of these lift gates by application of hydraulic power upon sensing a condition during a mode in which the lift gate is being lowered by the force of gravity infringes at least claim 9 of the '046 patent. By making, using, importing, exporting, offering for sale, and/or selling such products, Defendant has injured Maxon is thus liable to Maxon for infringement of the '046 patent pursuant to 35 U.S.C. § 271(a).

20. Defendant has been and still is indirectly infringing, by way of inducing infringement by others of the '046 patent, by, among other things, making, using, importing, exporting, offering for sale, and/or selling, without license or authority, lift gate systems that infringe at least claim 1 of the '046 patent by including a mode of lowering the lift game by application of hydraulic power can be selectively enabled during a mode in which the lift gate is

1 being lowered by the force of gravity. Defendant also has been and still is indirectly infringing,
2 by way of inducing infringement by others of the '046 patent, by, among other things, making,
3 using, importing, exporting offering for sale, and/or selling, without license or authority, lift gate
4 systems whose use to perform a method for controlling a hydraulic lift gate attached to a vehicle
5 such that the mode of lowering the lift gate by application of hydraulic power is activated upon
6 sensing a condition during a mode in which the lift gate is being lowered by the force of gravity
7 infringes at least claim 9 of the '046 patent. For example, lift gate systems incorporating lift gate
8 model nos. ILD Plus 35, ILD Plus 45, ILD Plus 55, ILD Plus 66, and ILFP units including
9 without limitation the ILFP Slide Units 30 and 40 infringe at least claim 1 of the '046 patent, and
10 activating a mode of lowering one of these lift gates by application of hydraulic power upon
11 sensing a condition during a mode in which the lift gate is being lowered by the force of gravity
12 infringes at least claim 9 of the '046 patent. These products are made, used, imported, exported,
13 offered for sale, and/or sold by direct infringers of the '046 patent in the United States, such as
14 Defendant's customers and end-users of Defendant's customers. Maxon lists the '046 patent on
15 its virtual patent marking webpage at www.maxonlift.com/patents and includes that webpage
16 address on the serial plates of its lift gate products. On information and belief, the lift gate
17 industry is a competitive one in which it is a common practice to monitor the product offerings
18 of competitors. On information and belief, Defendant monitored the product offerings of its
19 competitor Maxon, and was thereby aware of Maxon's virtual patent marking webpage prior to
20 the filing of this lawsuit and was aware of, or was willfully blind to, the existence of the '046
21 patent and the fact that it covered Maxon's products. Defendant, with knowledge of the '046
22 patent, knowingly induced and continues to induce others to directly infringe by inducing or
23 encouraging the use of its products and services in an infringing manner. Since at least the date
24 Defendant learned of the Maxon virtual patent marking webpage, and in any event no later than
25 the date it is served with this lawsuit, Defendant has had knowledge of the '046 patent and, by
26 continuing the actions described above, has had the specific intent to, or was willfully blind to
27 the fact that its actions would, induce infringement of the '046 patent. On information and
28 belief, through at least its technical support services, Defendant is aware that its customers have

1 used Defendant's ILD and ILFP Series lift gates to infringe the '046 patent. Thus, by making,
2 using, importing, exporting, offering for sale, and/or selling infringing products and services, and
3 by inducing and instructing its customers to use its products in an infringing way, Defendant has
4 injured Maxon and is thus liable to Maxon for infringement of the '046 patent under 35 U.S.C. §
5 271(b).

6 21. As a result of Defendant's infringement of the '046 patent, Maxon has suffered
7 monetary damages in an amount adequate to compensate for Defendant's infringement, but in no
8 event less than a reasonable royalty for the use made of the invention by Defendant and its
9 customers, together with interest and costs as fixed by the Court, and Maxon will continue to
10 suffer damages in the future unless Defendant's infringing activities are enjoined by this Court.

11 22. Maxon is in compliance with the requirements of 35 U.S.C. § 287.

12 **COUNT II: INFRINGEMENT OF THE '370 PATENT**

13 23. Maxon realleges and incorporates by reference paragraphs 1-22.

14 24. Defendant has been and still is directly infringing at least claims 1 and 3 of the
15 '370 patent, literally and under the doctrine of equivalents, by performing a method for
16 controlling a hydraulic lift gate attached to a vehicle such that the mode of lowering the lift gate
17 by the force of gravity is activated upon sensing a condition (such as a manual override input by
18 an operator) during a mode in which the lift gate is being lowered by hydraulic power. For
19 example, lift gate systems incorporating lift gate model nos. ILD Plus 35, ILD Plus 45, ILD Plus
20 55, ILD Plus 66, and ILFP units including without limitation the ILFP Slide Units 30 and 40
21 infringe at least claims 1 and 3 of the '370 patent. By making, using, importing, exporting,
22 offering for sale, and/or selling such products, Defendant has injured Maxon is thus liable to
23 Maxon for infringement of the '370 patent pursuant to 35 U.S.C. § 271(a).

24 25. Defendant has been and still is indirectly infringing, by way of inducing
25 infringement by others of the '370 patent, by, among other things, making, using, importing,
26 exporting, offering for sale, and/or selling, without license or authority, lift gate systems that
27 infringe at least claims 1 and 3 of the '370 patent by performing a method for controlling a
28 hydraulic lift gate attached to a vehicle such that the mode of lowering the lift gate by the force

1 of gravity is activated upon sensing a condition (such as a manual override input by an operator)
2 during a mode in which the lift gate is being lowered by hydraulic power. For example, lift gate
3 systems incorporating lift gate model nos. ILD Plus 35, ILD Plus 45, ILD Plus 55, ILD Plus 66,
4 and ILFP units including without limitation the ILFP Slide Units 30 and 40 infringe at least
5 claims 1 and 3 of the '370 patent. These products are made, used, imported, exported, offered
6 for sale, and/or sold by direct infringers of the '370 patent in the United States, such as
7 Defendant's customers and end-users of Defendant's customers. Maxon lists the '370 patent on
8 its virtual patent marking webpage at www.maxonlift.com/patents and includes that webpage
9 address on the serial plates of its lift gate products. On information and belief, the lift gate
10 industry is a competitive one in which it is a common practice to monitor the product offerings
11 of competitors. On information and belief, Defendant monitored the product offerings of its
12 competitor Maxon, and was thereby aware of Maxon's virtual patent marking webpage prior to
13 the filing of this lawsuit and was aware of, or was willfully blind to, the existence of the '370
14 patent and the fact that it covered Maxon's products. Defendant, with knowledge of the '370
15 patent, knowingly induced and continues to induce others to directly infringe by inducing or
16 encouraging the use of its products and services in an infringing manner. Since at least the date
17 Defendant learned of the Maxon virtual patent marking webpage, and in any event no later than
18 the date it is served with this lawsuit, Defendant has had knowledge of the '370 patent and, by
19 continuing the actions described above, has had the specific intent to, or was willfully blind to
20 the fact that its actions would, induce infringement of the '370 patent. On information and
21 belief, through at least its technical support services, Defendant is aware that its customers have
22 used Defendant's ILD and ILFP Series lift gates to infringe the '370 patent. Thus, by making,
23 using, importing, exporting, offering for sale, and/or selling infringing products and services, and
24 by inducing and instructing its customers to use its products in an infringing way, Defendant has
25 injured Maxon and is thus liable to Maxon for infringement of the '370 patent under 35 U.S.C. §
26 271(b).

27 26. As a result of Defendant's infringement of the '370 patent, Maxon has suffered
28 monetary damages in an amount adequate to compensate for Defendant's infringement, but in no

1 event less than a reasonable royalty for the use made of the invention by Defendant and its
2 customers, together with interest and costs as fixed by the Court, and Maxon will continue to
3 suffer damages in the future unless Defendant's infringing activities are enjoined by this Court.

4 27. Maxon is in compliance with the requirements of 35 U.S.C. § 287.

5 **COUNT III: INFRINGEMENT OF THE '361 PATENT**

6 28. Maxon realleges and incorporates by reference paragraphs 1-27.

7 29. Defendant has been and still is directly infringing at least claims 1 - 4 of the '361
8 patent, literally and under the doctrine of equivalents, by performing a method for controlling a
9 hydraulic lift gate attached to a vehicle such that the mode of lowering the lift gate by the force
10 of gravity is activated upon sensing a condition (such as a manual override input by an operator)
11 during a mode in which the lift gate is being lowered by hydraulic power. For example, lift gate
12 systems incorporating lift gate model nos. ILD Plus 35, ILD Plus 45, ILD Plus 55, ILD Plus 66,
13 and ILFP units including without limitation the ILFP Slide Units 30 and 40 infringe at least
14 claims 1 - 4 of the '361 patent. By making, using, importing, exporting, offering for sale, and/or
15 selling such products, Defendant has injured Maxon is thus liable to Maxon for infringement of
16 the '361 patent pursuant to 35 U.S.C. § 271(a).

17 30. Defendant has been and still is indirectly infringing, by way of inducing
18 infringement by others of the '361 patent, by, among other things, making, using, importing,
19 exporting, offering for sale, and/or selling, without license or authority, lift gate systems that
20 infringe at least claims 1 - 4 of the '361 patent by performing a method for controlling a
21 hydraulic lift gate attached to a vehicle such that the mode of lowering the lift gate by the force
22 of gravity is activated upon sensing a condition (such as a manual override input by an operator)
23 during a mode in which the lift gate is being lowered by hydraulic power. For example, lift gate
24 systems incorporating lift gate model nos. ILD Plus 35, ILD Plus 45, ILD Plus 55, ILD Plus 66,
25 and ILFP units including without limitation the ILFP Slide Units 30 and 40 infringe at least
26 claims 1 - 4 of the '361 patent. These products are made, used, imported, exported, offered for
27 sale, and/or sold by direct infringers of the '361 patent in the United States, such as Defendant's
28 customers and end-users of Defendant's customers. Maxon lists the '361 patent on its virtual

1 patent marking webpage at www.maxonlift.com/patents and includes that webpage address on
2 the serial plates of its lift gate products. On information and belief, the lift gate industry is a
3 competitive one in which it is a common practice to monitor the product offerings of
4 competitors. On information and belief, Defendant monitored the product offerings of its
5 competitor Maxon, and was thereby aware of Maxon's virtual patent marking webpage prior to
6 the filing of this lawsuit and was aware of, or was willfully blind to, the existence of the '361
7 patent and the fact that it covered Maxon's products. Defendant, with knowledge of the '361
8 patent, knowingly induced and continues to induce others to directly infringe by inducing or
9 encouraging the use of its products and services in an infringing manner. Since at least the date
10 Defendant learned of the Maxon virtual patent marking webpage, and in any event no later than
11 the date it is served with this lawsuit, Defendant has had knowledge of the '361 patent and, by
12 continuing the actions described above, has had the specific intent to, or was willfully blind to
13 the fact that its actions would, induce infringement of the '361 patent. On information and
14 belief, through at least its technical support services, Defendant is aware that its customers have
15 used Defendant's ILD and ILFP Series lift gates to infringe the '361 patent. Thus, by making,
16 using, importing, exporting, offering for sale, and/or selling infringing products and services, and
17 by inducing and instructing its customers to use its products in an infringing way, Defendant has
18 injured Maxon and is thus liable to Maxon for infringement of the '361 patent under 35 U.S.C. §
19 271(b).

20 31. As a result of Defendant's infringement of the '361 patent, Maxon has suffered
21 monetary damages in an amount adequate to compensate for Defendant's infringement, but in no
22 event less than a reasonable royalty for the use made of the invention by Defendant and its
23 customers, together with interest and costs as fixed by the Court, and Maxon will continue to
24 suffer damages in the future unless Defendant's infringing activities are enjoined by this Court.

25 32. Maxon is in compliance with the requirements of 35 U.S.C. § 287.

26 **Prayer for Relief**

27 Wherefore, Maxon respectfully requests that this Court enter judgment in its favor as
28 follows:

1 A. Holding that Defendant has infringed directly, literally and/or under the doctrine
2 of equivalents, the claims of the Asserted Patents;

3 B. Holding that Defendant has induced infringement of the claims of Asserted
4 Patent;

5 C. Permanently enjoining Defendant and its officers, directors, agents, servants,
6 employees, affiliates, divisions, branches, subsidiaries, parents and all other acting in concert of
7 privity with any of them from infringing or inducing the infringement of the Asserted Patents;

8 D. Awarding to Maxon the compensatory damages to which it is entitled under 35
9 U.S.C. § 284 for Defendant's past infringement, which on information and belief are in excess of
10 \$15 million, and any continuing or future infringement up until the date Defendant is finally and
11 permanently enjoined from further infringement, as well as treble damages for willful
12 infringement;

13 E. Declaring this to be an exceptional case and awarding Maxon attorneys' fees
14 under 35 U.S.C. § 285;

15 F. Awarding Maxon costs and expenses in this action;

16 G. Awarding Maxon pre- and post-judgment interest on its damages; and

17 H. Awarding Maxon such other and further relief in law or in equity as this Court
18 deems just and proper.

19 **DEMAND FOR JURY TRIAL**

20 Maxon, under Rule 38 of the Federal Rules of Civil Procedure, requires a trial by jury of
21 any issues so triable by right.
22
23
24
25
26
27
28

Dated: July 21, 2016

Respectfully submitted,

RUSS AUGUST & KABAT

Marc A. Fenster

Neil A. Rubin

Arka D. Chatterjee

By: /s/ Marc A. Fenster

Marc A. Fenster

Attorneys for Plaintiff

MAXON INDUSTRIES, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RUSS, AUGUST & KABAT