

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Arctic Cat Inc.,

Case No.: 0:16-cv-00009-WMW-HB

Plaintiff,

**AMENDED COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND
FOR JURY TRIAL**

v.

Polaris Industries Inc.,

Defendant.

Plaintiff, Arctic Cat Inc. (“Arctic Cat”), for its Complaint for Patent Infringement and Demand for Jury Trial against Defendant Polaris Industries Inc. (“Polaris” or “Defendant”), states and alleges as follows:

NATURE OF THIS ACTION

This is an action for patent infringement of United States Patent No. 7,669,678 entitled “Textured All-Terrain Vehicle Fenders” (“the ‘678 Patent”) under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, and seeking damages, injunctive relief, and other relief as appropriate under 35 U.S.C. § 281, *et seq.* A true and correct copy of the ‘678 Patent is attached hereto as Exhibit A.

THE PARTIES

1. Plaintiff Arctic Cat Inc. is a corporation organized and existing under the laws of the State of Minnesota, having its principal place of business at 500 N. 3rd Street, 4th Floor, Minneapolis, Minnesota 55401.

2. Defendant Polaris Industries Inc. is a corporation organized and existing under the laws of the State of Delaware and having its principal place of business at 2100 Highway 55, Medina, Minnesota 55340.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action concerns the infringement of a United States patent.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because the Defendant resides in this judicial district, has a regular and established place of business in this judicial district, and has committed acts of patent infringement in this judicial district.

6. This Court has personal jurisdiction over the Defendant for at least the reasons that the Defendant resides in Minnesota, transacts business in Minnesota, has purposefully availed itself of the privileges of doing business in Minnesota, and has committed acts of patent infringement in Minnesota as alleged in this Complaint for Patent Infringement.

7. Defendant has sold and offered for sale products that infringe Arctic Cat's '678 patent in this judicial district, including at least the products set forth in this Complaint for Patent Infringement. Defendant has sold and offered for sale, without limitation, the infringing Polaris Sportsman 570 model All-Terrain Vehicle (ATV) in

Minnesota and elsewhere. Defendant has also imported the infringing Polaris Sportsman 570 ATV into the United States, and Defendant has directed such importation from Minnesota.

THE PATENT IN SUIT

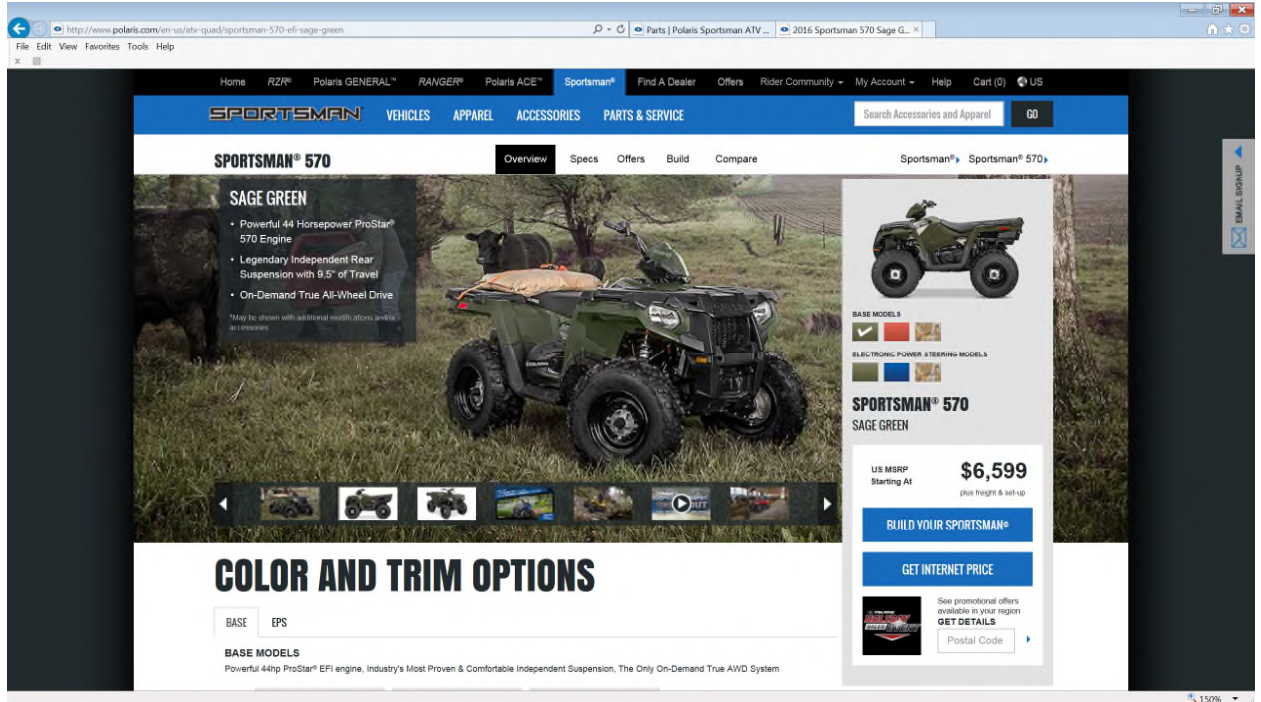
8. Arctic Cat is and has been at all relevant times the owner by assignment of the '678 Patent entitled "Textured All-Terrain Vehicle Fenders," which the United States Patent and Trademark Office duly issued on March 2, 2010.

9. The inventions of the '678 Patent are applicable to textured body panels for straddle-ridden type vehicles, including, without limitation, all-terrain vehicles (ATVs) with fenders having textured exterior portions. (*See, e.g.*, Ex. A at Col. 1, ll. 45-48.)

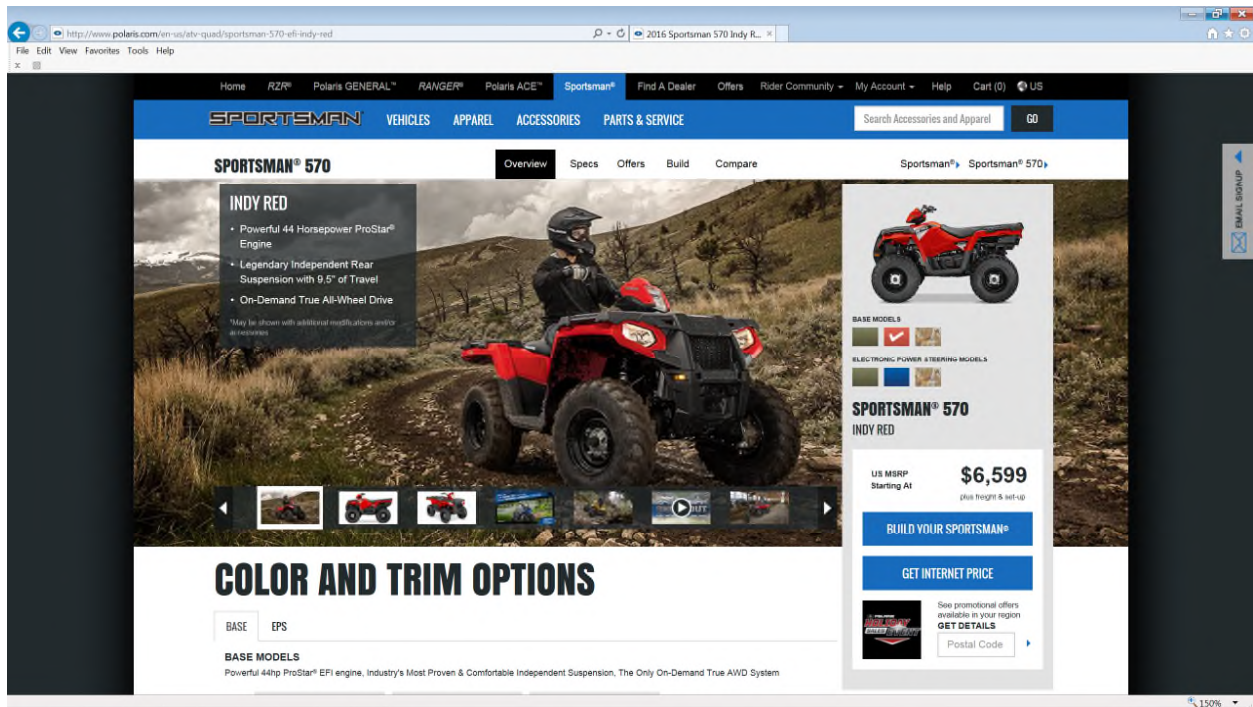
DEFENDANT'S INFRINGING ACTIVITIES

10. Defendant is a manufacturer of off-road vehicles such as snowmobiles, all-terrain vehicles (ATVs), and side-by-side vehicles. Defendant has manufactured, used, sold, and/or offered for sale products that infringe the '678 Patent, including, without limitation, the Sportsman 570 ATV. Defendant has also imported into the United States products that infringe the '678 Patent, including, without limitation, the Sportsman 570 ATV.

11. Defendant's Sportsman 570 ATV is a straddle-ridden type vehicle, specifically an ATV, as described and claimed in the '678 Patent. Photographs of the 2016 model year Sportsman 570 appear on Defendant's website as follows:



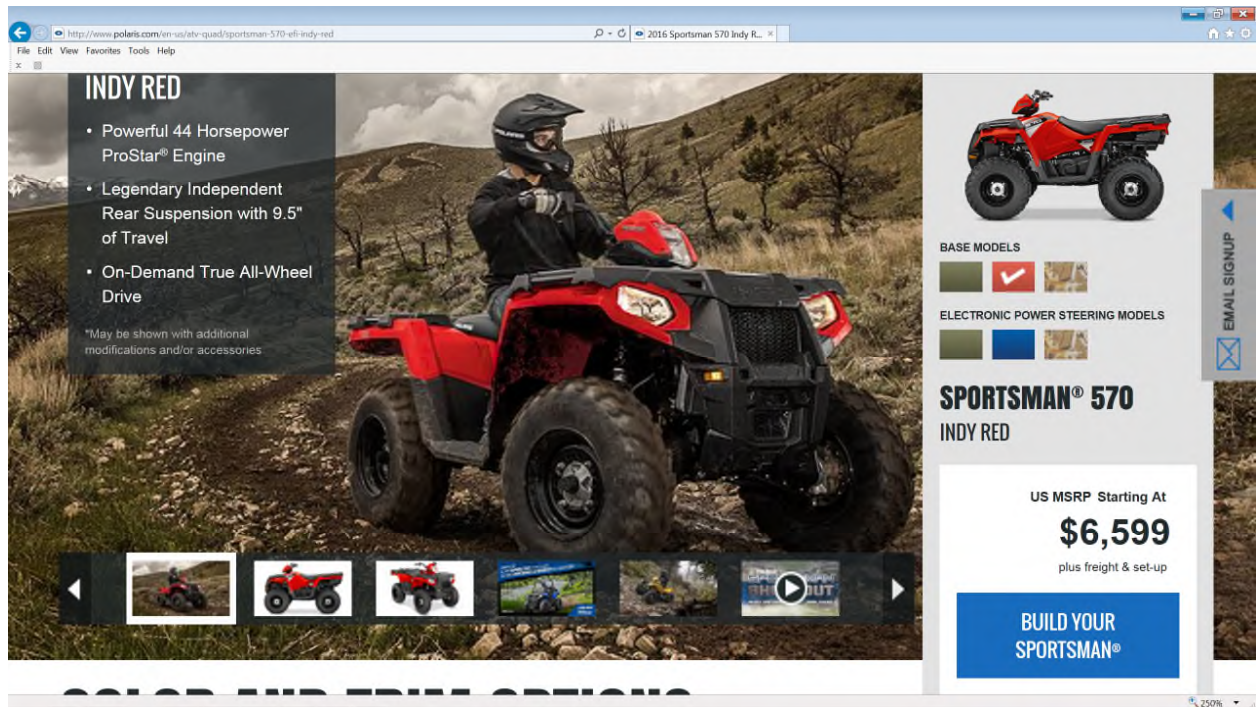
(See <http://www.polaris.com/en-us/atv-quad/sportsman-570-efi-sage-green>, visited January 3, 2016.)



(See <http://www.polaris.com/en-us/atv-quad/sportsman-570-efi-indy-red>, visited January 3, 2016.)

12. The Sportsman 570 ATV contains all limitations of at least one claim of the '678 Patent, including, without limitation, Claim 1.

13. The Sportsman 570 ATV includes “[a] body panel for a straddle-ridden type vehicle for use by a rider wherein the rider comes in frequent contact with the body panel during use.” (See Ex. A, Col. 4, ll. 37-39). Photographs of the Sportsman 570 ATV from Defendant’s website show that the Sportsman 570 ATV includes body panels including fenders that are located in a position where the rider will come into frequent contact with the body panels while using the vehicle.



http://www.polaris.com/en-us/atv-quad/sportsman-570-efi-indy-red

2016 Sportsman 570 Indy R...

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SPORTSMAN® 570
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\$6,599
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BASE MODELS

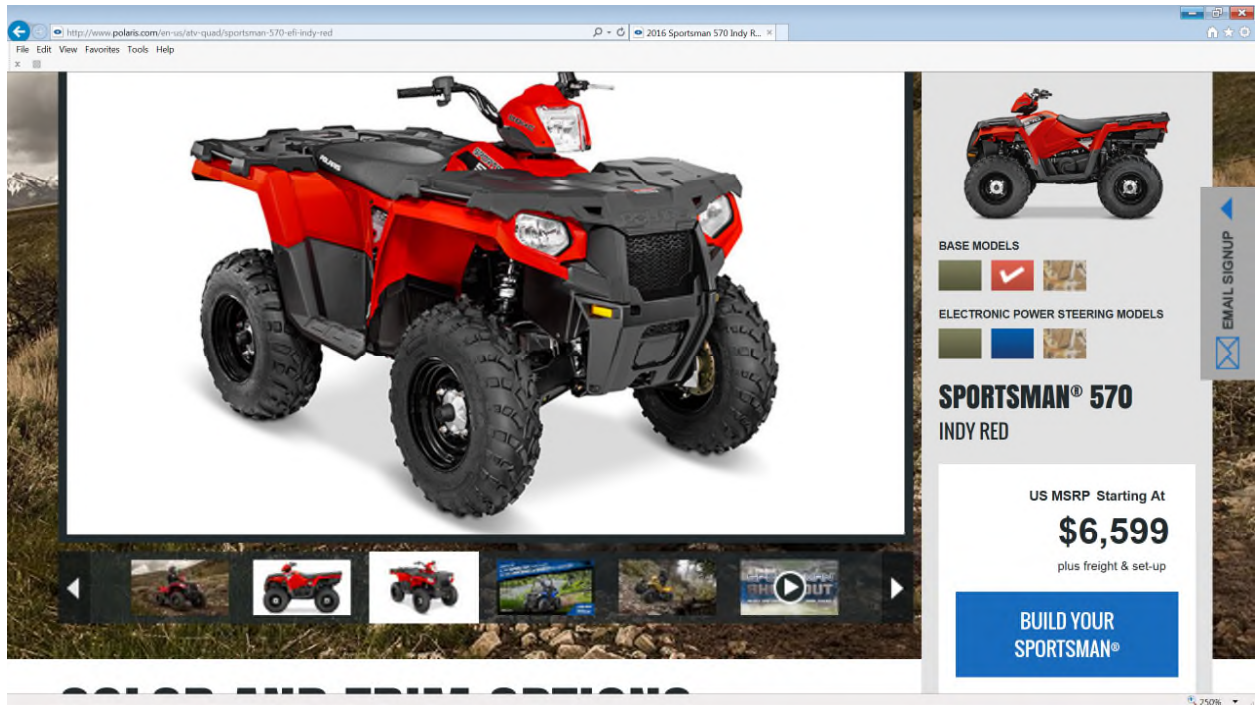
ELECTRONIC POWER STEERING MODELS

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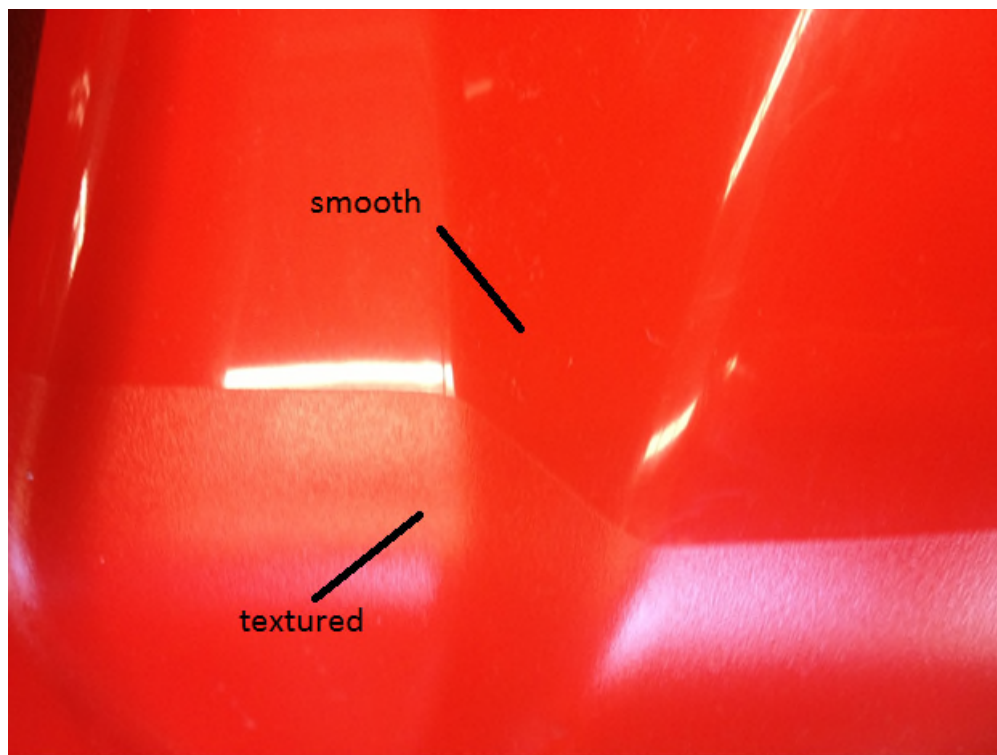
EMAIL SIGNUP



14. The Sportsman 570 ATV includes a body panel comprising “a smooth exterior portion” and a “textured exterior portion adjacent said smooth portion, said textured portion being positionable adjacent the leg of the rider in a frequent rider contact zone of the vehicle, wherein said smooth exterior portion and said textured exterior portion are formed of the same unitary body panel, said textured portion being molded unitarily with said smooth portion.” (See Ex. A, Col. 4, ll. 40-47.) The photographs above show the unitary body panel located so that it will be adjacent the leg of the rider. In addition, the following photographs of the 2016 model year Sportsman 570 ATV also show a body panel including a smooth exterior portion and a textured exterior portion adjacent the smooth portion, with the textured portion located where it would be adjacent the rider’s leg and in a frequent rider contact zone. The photographs show a body panel

and a close-up view of the textured portion adjacent the smooth portion, with the textured exterior portion molded unitarily with the smooth portion.







15. The Sportsman 570 ATV also practices numerous dependent claims of the '678 Patent.

16. On information and belief, additional of Defendant's products practice one or more claims of the '678 Patent, including at least Claim 1. Without limitation, since Defendant's Sportsman 570 ATV infringes several claims of the '678 patent, on information and belief, additional ATVs in Defendant's Sportsman line and other lines of ATVs infringe the '678 patent.

17. Arctic Cat reserves the right to identify other infringing products and/or additional claims of the '678 Patent found to be infringed during further discovery and investigation.

18. Defendant does not have a license to Arctic Cat's '678 Patent.

19. Polaris has had knowledge of the '678 Patent at least from the time of the filing and service of the Complaint in this action.

COUNT I
INFRINGEMENT OF THE '678 PATENT

20. Arctic Cat restates and incorporates by reference the paragraphs above as if fully stated herein.

21. Under 35 U.S.C. § 271, Defendant has directly infringed and continues to directly infringe, literally or under the doctrine of equivalents, one or more claims of the '678 Patent by selling, offering to sell, and/or using within the United States, without authority, the Sportsman 570 ATV. Further, Defendant has directly infringed and continues to directly infringe, literally or under the doctrine of equivalents, one or more

claims of the '678 Patent by importing into the United States, without authority, the Sportsman 570 ATV.

22. On information and belief, Defendant manufactures the infringing Sportsman 570 ATV in Mexico. However, if discovery and investigation reveal that Defendant manufactures all or part of the Sportsman 570 ATV within the United States, such manufacture of the Sportsman 570 ATV in the United States constitutes an additional basis for patent infringement under 35 U.S.C. § 271.

23. On information and belief, Polaris's infringement of the '678 Patent is willful. Polaris has had knowledge of the '678 Patent, and has known or should have known that its ATVs infringe the '678 Patent, at least from the time of the filing and service of the Complaint in this action. On information and belief, Polaris has taken no steps to avoid infringement of the '678 Patent. Rather, Polaris has continued to make, use, offer to sell, and/or sell or import into the United States its infringing ATVs in willful, deliberate, and reckless disregard of the '678 Patent and the rights conferred by the '678 Patent to Arctic Cat.

24. Defendant will continue to infringe the '678 Patent unless and until the Court enjoins Defendant from committing further infringing acts.

25. Defendant has caused and continues to cause Arctic Cat to suffer damages in an amount to be determined, and has caused and continues to cause Arctic Cat irreparable harm for which Arctic Cat has no adequate remedy at law. Arctic Cat will continue to suffer irreparable harm unless and until the Court enjoins Defendants from committing further infringing acts.

26. Arctic Cat is entitled to recover from Defendant damages, including lost profits, in an amount to be determined that is adequate to compensate Arctic Cat for Defendant's infringement.

PRAYER FOR RELIEF

WHEREFORE, Arctic Cat respectfully requests that this Court enter judgment in its favor against Defendant, as follows:

A. To enter judgment that Defendant has directly infringed one or more claims of the '678 Patent;

B. To enter orders permanently enjoining Defendant and its officers, agents, directors, servants, employees, attorneys, representatives, parents, subsidiaries, affiliates, joint venturers, and all of those in active concert, privity or participation with them and their successors and assigns, from infringing the '678 Patent;

C. To award Arctic Cat its damages in an amount adequate to compensate Arctic Cat for Defendant's infringement of the '678 Patent, together with costs and pre-judgment and post-judgment interest;

D. To enter judgment that Polaris's infringement of the '678 Patent is willful and that damages shall be increased under 35 U.S.C. § 284 to three times the amount found or measured;

E. To award an accounting of all Defendant's infringing sales through final judgment;

F. To declare this case to be "exceptional" under 35 U.S.C. § 285 and to award Arctic Cat its attorneys' fees, expenses, and costs incurred in this action; and

G. To award Arctic Cat such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Arctic Cat requests a trial by jury of any and all issues on which a trial by jury is available.

Dated: February 3, 2017

By: /s/Aaron Myers
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Aaron A. Myers (MN#311959)

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