

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK DIVISION**

**WATLOW ELECTRIC
MANUFACTURING COMPANY**

Plaintiff,

v.

**VOLVO CARS OF NORTH AMERICA
LLC and VOLVO CAR CORPORATION
(a/k/a/ VOLVO PERSONVAGNAR AB)**

Defendant.

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§ **CIVIL ACTION NO.:**
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§ **COMPLAINT AND JURY DEMAND**
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COMPLAINT

For its complaint against defendant (“Volvo”), Watlow Electric Manufacturing Company (“Watlow”) alleges:

PARTIES

1. Plaintiff Watlow is a corporation organized under the laws of the State of Missouri having a principal place of business at 12001 Lackland Rd., St. Louis, Missouri 63146.
2. Defendant Volvo Cars of North America, LLC (“VNCA”) is a Delaware limited liability company having a principal place of business in Rockleigh, New Jersey.
3. Volvo Car Corporation (“VCC”), the parent company to Volvo Cars of North America LLC, is a Swedish corporation based in Sweden.
4. VNCA and VCC are collectively referred to herein as “Volvo.”

NATURE OF ACTION, JURISDICTION AND VENUE

5. This is an action for patent infringement under the Patent Act, 35 U.S.C. § 1 et seq.

6. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (Federal Question) and § 1338 (Patent, Trademark and Unfair Competition).

7. Venue is proper in this district under 28 U.S.C. § 1391(c)(3) and 1400(b).

FACTS COMMON TO ALL COUNTS

Background: Watlow

8. Watlow is a privately-owned business that has expertise in the engineering and design of customized thermal process solutions and is a leading manufacturer of process heaters, thermocouples, temperature, process and power controllers and complete thermal systems for a wide variety of industrial applications. Watlow was founded in 1922 in St. Louis, Missouri. Since that time, Watlow has expanded its operations throughout the world. Watlow currently has nine manufacturing facilities and three technology centers in the United States, Mexico, Europe and Asia and sales offices in over 15 countries. Watlow remains based in the United States and has maintained its world headquarters in St. Louis Missouri since the founding of the company.

9. Watlow is, and has been, a technology leader in its field, devoting significant resources to exploring, testing, expanding and developing new technologies.

10. One of the technologies that Watlow has invested in is layered heater technology in which an electrically conductive resistive layer is produced by placing an electrically conductive material onto the surface of a substrate and then removing material from the resistive layer in a controlled manner so that an electrically conductive resistive layer having a desired shape is produced. The resistive layer can then be used to effectively and efficiently provide heat.

11. For certain applications, layered heater elements can provide heat more effectively and efficiently than other heating technologies. One such application concerns situations where heat needs to be applied to a complex shaped part, such as a cast or machined part.

12. Watlow's work in layered heaters has been recognized throughout the world. Watlow inventors have applied for, and received, numerous patents on a large variety of inventions developed because of Watlow's investment in layered heater technology.

13. Two of the patents that Watlow inventors earned in the United States are U.S. Patent No. 7,361,869 ("the '869 Patent") and U.S. Patent No. 8,536,496 ("the '496 Patent").

14. The '869 Patent issued on April 22, 2008. Watlow is the owner through assignment of the '869 Patent, which is valid and enforceable. The '869 Patent is directed to a layered heater for use with complex shaped substrates. A true and correct copy of the '869 patent is attached as Exhibit A.

15. The '496 Patent issued on September 17, 2013. Watlow is the owner through assignment of the '496 Patent, which is valid and enforceable. The '496 Patent is directed to a constant voltage layered heater. A true and correct copy of the '496 patent is attached as Exhibit B.

Background: Webasto

16. In addition to being acknowledged by patent offices throughout the world as an innovator and technology leader in the field of layered heaters, Watlow has been acknowledged as a technology leader in that area by companies in the industry who have approached Watlow about developing products that would utilize Watlow technology in applications of interest to those companies.

17. One such company that approached Watlow in the past concerning its layered heater innovations is Webasto. Webasto is a German-based supplier to the automotive industry.

18. Approximately seven years ago, Webasto approached Watlow about having Watlow design and develop a high voltage electric layered heater product for Webasto to use in a heating product to be sold for use in plug-in hybrid electric and pure electric vehicle applications.

19. Electric heaters are often required for plug-in hybrid and pure electric vehicles. Conventional vehicles such as automobiles typically obtain heat as a byproduct of the combustion process. Plug-in hybrid and pure electric vehicles do not always have such a heat source available and need electric heaters for that purpose. The heat is used, for example, to heat the passenger compartment and for defrosting windows.

20. At Webasto's request, Watlow invested time and effort to develop layered heater design solutions and it disclosed those solutions and various technological ideas and concepts to Webasto.

21. Sometime after receiving Watlow's layered heater technical information and the design that Watlow developed, Webasto informed Watlow that it would not be moving forward with any Watlow layered heater products or designs. Thereafter it was learned that Webasto had released a high voltage layered heating product that it has begun to promote significantly and publicly.

Background: Volvo

22. Volvo Cars is a Swedish-based company that makes and sells vehicles and includes affiliated companies that use, sell, and offer for sale vehicles in the United States, and that import vehicles into the United States.

23. Volvo is, and intends to be, a major player in the market for plug-in hybrid and pure electric vehicles. Volvo has publicly stated that, starting in 2019, all the car models it will be introducing will be either hybrid vehicles or vehicles powered solely by electric batteries.

24. One of the cars that Volvo has imported, sold and offered for sale in the United States is the Volvo XC90 plug-in electric (hereinafter the “XC90”). The Volvo XC90 is the type of car that requires an electric heating source.

25. The heating source in the Volvo XC90 is a high voltage heater product made by Webasto (hereinafter the “Webasto HVH”).

26. The Webasto HVH is a layered heater product that appears to utilize the same technological information as the layered heater design previously provided by Watlow to Webasto.

27. The Webasto HVH falls within the scope of claims in Watlow’s ‘869 Patent including, at least, claim 1. A chart comparing the limitations of claims 1, 2, 5 and 9 of the ‘869 Patent with the Webasto HVH as used in the Volvo XC90 is attached as Exhibit C.

28. The Webasto HVH falls within the scope of claims in Watlow’s 496 Patent including, at least, claim 5. A chart comparing the limitations of claim 5 of the ‘869 Patent with the Webasto HVH as used in the Volvo XC90 is attached as Exhibit D.

COUNT I

Infringement of the ‘869 Patent

29. The allegations in the preceding paragraphs of this Complaint are hereby restated and incorporated by reference.

30. Volvo has committed acts of direct patent infringement of the ‘869 Patent by using, selling, offering to sell, in the United States and importing into the United States vehicles including the Webasto HVH Layered Heater.

31. At all relevant times, Plaintiff has complied with any applicable obligations required by 35 U.S.C. § 287.

32. Watlow has been damaged by Volvo's infringement. Volvo is, thus, liable to Watlow in an amount that adequately compensates it for which, by law, cannot be less than a reasonable royalty, together with interest and costs, including lost profits, as affixed by this Court under 35 U.S.C. § 284.

COUNT II
Infringement of the '496 Patent

33. The allegations in the preceding paragraphs of this Complaint are hereby restated and incorporated by reference.

34. Volvo has committed acts of direct patent infringement of the '496 Patent by using, selling, offering to sell, in the United States and importing into the United States vehicles including the Webasto HVH Layered Heater.

35. At all relevant times, Plaintiff has complied with any applicable obligations required by 35 U.S.C. § 287.

36. Watlow has been damaged by Volvo's infringement. Volvo is, thus, liable to Watlow in an amount that adequately compensates it for which, by law, cannot be less than a reasonable royalty, together with interest and costs, including lost profits, as affixed by this Court under 35 U.S.C. § 284.

PRAYER

WHEREFORE, Watlow requests judgment against Defendant as follows:

1. An award of damages, increased as deemed appropriate by the court, under 35 U.S.C. § 284;
2. An award of attorneys' fees under 35 U.S.C. § 285;
3. An award of prejudgment interest and costs of the action; and
4. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Watlow demands a trial by jury on all issues so triable.

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

The within matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Dated: June 15, 2018

Respectfully submitted,

/S/ Christopher J. Keale

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