

SEP 06 2018

JULIA C. DUDLEY, CLERK
BY: s/ H. MCDONALD
DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

VISTA OUTDOOR OPERATIONS LLC,

Plaintiff,

v.

WINTRODE ENTERPRISES, INC. d/b/a
Bulldog Cases,

Defendant.

No.: 4:18CV00054

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Vista Outdoor Operations, LLC (“Vista”), for its Complaint for patent infringement against Wintrade Enterprises, Inc. d/b/a Bulldog Cases (“Bulldog”), alleges as follows:

THE PARTIES

1. Plaintiff Vista is a limited liability company organized under the laws of the State of Delaware. Vista is headquartered in Farmington, Utah. Vista has offices in Virginia Beach, Virginia, and Arlington, Virginia.

2. On information and belief, Defendant Bulldog is a corporation organized under the laws of the Commonwealth of Virginia. Upon information and belief, Bulldog’s principal place of business is located in Danville, Virginia.

JURISDICTION AND VENUE

3. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code Section 1 *et. seq.*

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Bulldog because Bulldog conducts substantial and continuous business in this judicial district. Bulldog offers products for sale in Virginia through its dealers, through Bulldog's catalog, and through the internet. Plaintiff Vista alleges that at least one of these products infringes Vista's patents.

6. This Court has specific jurisdiction over Bulldog because it has committed acts giving rise to this action and has established minimum contacts within this judicial district such that the exercise of jurisdiction over Bulldog would not offend traditional notions of fair play and substantial justice.

7. Venue is proper in this District under 28 U.S.C. § 1400(b) because, upon information and belief, Bulldog is a company organized and existing under the laws of the Commonwealth of Virginia and Bulldog resides in this judicial district.

8. Venue is also proper in this District under 28 U.S.C. § 1400(b) because, upon information and belief, Bulldog has committed acts of infringement in this judicial district and Bulldog has a regular and established place of business in this judicial district.

DEMAND FOR JURY TRIAL

9. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Vista demands a trial by jury of this action.

FACTUAL ALLEGATIONS

VISTA

10. Vista was founded in 2015 as a spinoff of Alliant Techsystems Inc. (“ATK”).

11. Vista, and its predecessor ATK, have dedicated substantial time and resources towards researching, developing, acquiring, obtaining, and patenting innovative technology.

12. Vista is a leading designer, manufacturer and marketer of innovative products that are sold to a broad range of end consumers, including outdoor enthusiasts, hunters and recreational shooters, as well as law enforcement and military professionals.

13. Among other products, Vista markets and sells innovative and patented holsters for handguns and other firearm accessories.

14. On November 30, 2010, the United States Patent and Trademark Office (the “PTO”) issued Patent No. 7,841,497 (the “‘497 Patent”), entitled, “Holster Retention System.” A true and correct copy of the ‘497 Patent is attached hereto as Exhibit A.

15. On July 2, 2013, the PTO issued Patent No. 8,474,670 (the “‘670 Patent”), entitled, “Holster Retention System.” A true and correct copy of the ‘670 Patent is attached hereto as Exhibit B.

16. Vista is the owner by assignment of all rights, title and interest to and in the ‘497 Patent and the ‘670 Patent.

BULLDOG

17. Bulldog sells firearm accessories, including holsters for handguns. Bulldog sells its holsters through dealers located in Virginia and in other states. Bulldog also sells its holsters through catalog sales and internet sales directly to end users located in Virginia and in other states.

18. As of June 3, 2016, Bulldog was offering to sell and selling holsters known as the Bulldog Polymer Holster, Large, and the Bulldog Polymer Holster, Small (the "Polymer Holsters").

19. A true and correct printout of Bulldog's website advertising for the Polymer Holsters is attached hereto as Exhibit C.

20. A true and correct copy of a photograph of Bulldog's packaging that advertises a Polymer Holster is attached as Exhibit D.

21. A true and correct copy of a side view photograph of a Polymer Holster is attached as Exhibit E.

22. A true and correct copy of a top view photograph of a Polymer Holster is attached as Exhibit F.

23. Bulldog's Polymer Holsters include, but are not necessarily limited to, the following products:

- (a) P-G19 (Fits Glock 19, 23 & 32 Gen 1, 2, 3, 4);
- (b) P-G17 (Fits Glock 17, 22 & 31 Gen 1, 2, 3, 4);
- (c) P-G27 (Fits Glock 26, 27 and 33 Gen 1, 2, 3, 4);
- (d) P-G42 (Fits Glock 42);

- (e) P-G43 (Fits Glock 43);
- (f) P-SWMPS (Fits S&W M&P Shield);
- (g) P-SWBG (Fits S&W Bodyguard .380);
- (h) P-SWMPC (Fits S&W M&P Compact);
- (i) P-SWMP (Fits S&W M&P Standard);
- (j) P-SPXDS (Fits Springfield XDS);
- (k) P-LC9 (Fits Ruger LC9);
- (l) P-LC9Z (Fits Ruger LC9 w/ Laser);
- (m) P-LCP (Fits Ruger LCP and Keltec P-3AT);
- (n) P-S220 (Fits Sig Sauer P220, P225, P226, P228 & P229);
- (o) P-1911C (Fits Compact 1911 Style Autos (3" barrel));
- (p) P-1911 (Fits Standard 1911 Style Autos (up to 5" barrel));
- (q) P-92F (Fits Beretta & Taurus 92);
- (r) P-T247 (Fits Taurus 24/7 & 24/70SS);
- (s) P-TM (Fits Taurus Millennium Gen II); and
- (t) P-HP (Fits High Point 40SW & 45ACP).

24. Bulldog's Polymer Holsters incorporate important and valuable technical innovations that were patented in the '497 Patent and the '670 Patent.

25. Bulldog's Polymer Holsters infringe one or more claims of the '497 Patent.

26. Bulldog's Polymer Holsters infringe one or more claims of the '670 Patent.

27. Upon information and belief, Bulldog has enjoyed profits off sales of its infringing Polymer Holsters, without Vista's authorization and without compensating Vista.

VISTA'S DEMAND LETTERS TO BULLDOG

28. On or about June 20, 2016, Vista sent a demand letter to Bulldog. Vista attached copies of the '497 Patent and the '670 Patent to its demand letter.

29. In the demand letter, Vista provided actual notice to Bulldog that Bulldog's Polymer Holsters infringed on the claims of the '497 Patent and the '670 Patent. Vista also demanded that Bulldog immediately cease making, using, offering to sell, and/or selling the infringing Polymer Holsters.

30. On September 12, 2016, Bulldog's counsel sent a letter to Vista's counsel and represented that Bulldog had decided to redesign its Polymer Holsters in a manner that would make them non-infringing.

31. Over a year after Bulldog represented that it would redesign its infringing Polymer Holsters, Bulldog was still selling infringing Polymer Holsters through its dealers and distributors, including, but not limited to, a retailer known as Cabela's.

32. On September 13, 2017, Vista sent a second demand letter to Bulldog's counsel. In its second demand letter, Vista referenced the infringing sales still being made by Bulldog's retailer, Cabela's, and requested an adequate assurance that Bulldog and its distribution partners would cease sales of infringing holsters.

33. Despite receiving the two demand letters from Vista, Bulldog continued to sell infringing holsters through its distribution partners.

34. Over eight months after Vista sent its second demand letter, Bulldog was still selling infringing holsters through its dealers and distributors, including, but not limited to, a retailer known as Optics Planet.

35. On May 15, 2018, Vista sent yet another demand correspondence to Bulldog's counsel. Upon information and belief, Bulldog did nothing to end sales of infringing holsters through its dealers and distributors. This lawsuit followed.

LEGAL CAUSES OF ACTION

COUNT I (Infringement of the '497 Patent)

36. Vista realleges and incorporates herein the allegations set forth in the paragraphs set forth above.

37. Bulldog has directly infringed, and continues to directly infringe, at least claims 1-4, 6-14, 16-17, 19, 22-23, and 25-30 of the '497 Patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by selling, and/or offering for sale in the United States and without authority the Polymer Holsters that infringe such claims.

38. For instance, claim 1 of the '497 Patent claims a holster for a handgun comprising "a cavity having an open top end, a bottom end, a frame/slide portion, and a trigger guard portion, wherein the frame/slide portion of the cavity has greater depth than the trigger guard portion of the cavity. . . ."

39. As reflected in Exhibits E-F, the Polymer Holsters have a cavity with a top end, a bottom end, a frame/slide portion, and a trigger guard portion.

40. As reflected in Exhibits E-F, the Polymer Holsters also have a frame/slide portion of the cavity with greater depth than the trigger guard portion.

41. Claim 1 of the '497 Patent also claims "an axis defined along a side wall of the holster, wherein the axis extends from the open top end to the bottom end. . . ."

42. As shown in Exhibits E-F, the Polymer Holsters are comprised of an axis defined along a side wall, and the axis extends from the open top end to the bottom end.

43. Claim 1 of the '497 Patent also claims “a lever having a finger button portion and an engagement portion, wherein the lever includes a first side facing generally away from the holster cavity and a second side facing generally toward the holster cavity, and wherein the engagement portion of the lever includes a locking portion protruding from the second side of the engagement portion. . . .”

44. As shown in Exhibits E-F, the Polymer Holsters have a lever with a finger button portion and an engagement portion.

45. The lever of the Polymer Holsters includes a first side facing generally away from the holster cavity and a second side facing generally toward the holster cavity.

46. The engagement portion of the lever of the Polymer Holsters includes a locking portion protruding from the second side of the engagement portion.

47. Claim 1 of the '497 Patent also claims a “lever [that] is positioned atop the side wall of the holster, and wherein the lever is pivotally attached atop the side wall of the holster, along the axis, approximately between the finger button portion and the engagement portion, such that the finger button portion extends from the axis and is situated above the frame/slide portion of the cavity and the engagement portion extends from the axis and is situated above the trigger guard portion of the cavity. . . .”

48. As shown in Exhibits E-F, the Polymer Holsters have a lever that is positioned atop the side wall of the holster.

49. This lever is pivotally attached atop the side wall of the holster, along the axis, approximately between the finger button portion and the engagement portion, such that the finger button portion extends from the axis and is situated above the frame/slide portion of the cavity and the engagement portion extends from the axis and is situated above the trigger guard portion of the cavity.

50. Claim 1 of the '497 Patent also claims "a ridge extending from the side wall around at least a portion of the lever so as to define a recess, wherein the lever is positioned within the recess. . . ."

51. As shown in Exhibit E, the Polymer Holsters have a ridge extending from the side wall around at least a portion of the lever so as to define a recess.

52. The Polymer Holsters also have a lever positioned within the recess.

53. Claim 1 of the '497 Patent also claims "an aperture formed in a portion of the side wall beneath at least a portion of the finger button portion of the lever, wherein the aperture is formed within the recess."

54. As shown in Exhibit E, the Polymer Holsters have an aperture formed in a portion of the side wall beneath at least a portion of the finger button portion of the lever.

55. The Polymer Holsters also have an aperture formed within the recess.

56. Bulldog's Polymer Holsters directly infringe claim 1 of the '497 Patent, literally or under the doctrine of equivalents.

57. Bulldog's Polymer Holsters also directly infringe at least claims 2-4, 6-14, 16-17, 19, 22-23, and 25-30 of the '497 Patent, literally or under the doctrine of equivalents.

58. Vista has suffered, and will continue to suffer, irreparable harm unless this Court enjoins Bulldog from infringing the '497 Patent pursuant to 35 U.S.C. § 283.

59. Vista has suffered damages as a result of Bulldog's infringement of the '497 Patent and is entitled to recover those damages pursuant to 35 U.S.C. § 284.

60. Bulldog's sales of the infringing holsters after Bulldog received Vista's demand letter dated June 20, 2016, Bulldog's misrepresentation concerning redesigning its holsters to make them noninfringing, and Bulldog's continued sales of infringing holsters through its dealers and distributors, constitutes willful infringement and Bulldog is liable for enhanced damages pursuant to 35 U.S.C. § 284.

61. Bulldog's disregard of Vista's repeated demands concerning Bulldog's ongoing infringement, Bulldog's misrepresentation concerning redesigning its holsters to make them noninfringing, and Bulldog's continued sales of infringing holsters through its dealers and distributors, make this an exceptional case in which Bulldog is liable for Vista's attorney's fees pursuant to 35 U.S.C. § 285.

COUNT II
(Infringement of the '670 Patent)

62. Vista realleges and incorporates herein the allegations set forth in the paragraphs set forth above.

63. Bulldog has directly infringed, and continues to directly infringe, at least claims 1-2, 4-7, 9-10, and 12-20 of the '670 Patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by selling, and/or offering for sale in the United States and without authority the Polymer Holsters that infringe such claims.

64. For instance, claim 1 of the '670 Patent claims a holster for a handgun comprising “a cavity having an open top end, a bottom end, a frame/slide portion and a trigger guard portion, wherein said frame/slide portion of said cavity has greater depth than said trigger guard portion of said cavity. . . .”

65. As reflected in Exhibits E-F, the Polymer Holsters have a cavity with a top end, a bottom end, a frame/slide portion, and a trigger guard portion.

66. As reflected in Exhibits E-F, the Polymer Holsters have a frame/slide portion of the cavity with greater depth than the trigger guard portion.

67. Claim 1 of the '670 Patent also claims “an axis extending between said frame/slide portion of said cavity and said trigger guard portion of said cavity. . . .”

68. As shown in Exhibits E-F, the Polymer Holsters are comprised of an axis extending between the frame/slide portion and the trigger guard portion of the cavity.

69. Claim 1 of the '670 Patent also claims “a lever having a finger button portion and an engagement portion, wherein said lever includes a second side facing generally toward said holster cavity, and wherein said engagement portion of said lever includes a locking projection extending from said second side of said engagement portion. . . .”

70. As shown in Exhibit E, the Polymer Holsters have a lever with a finger button portion and an engagement portion.

71. The lever of the Polymer Holsters includes a second side facing generally toward the holster cavity.

72. The engagement portion of the lever of the Polymer Holsters includes a locking portion extending from the second side of the engagement portion.

73. Claim 1 of the '670 Patent also claims a "lever [that] is pivotally attached atop said side wall of said holster, along said axis, approximately between said finger button portion and said engagement portion, such that said finger button portion extends from said axis and is positioned above said frame/slide portion of said cavity and said engagement portion extends from said axis and is positioned above said trigger guard portion of said cavity. . . ."

74. As shown in Exhibit E, the Polymer Holsters have a lever that is pivotally attached atop the side wall of the holster.

75. The Polymer Holsters also have a lever that is pivotally attached atop the side wall of the holster, along the axis, approximately between the finger button portion and the engagement portion, such that the finger button portion extends from the axis and is positioned above the frame/slide portion of the cavity and the engagement portion extends from the axis and is positioned above the trigger guard portion of the cavity.

76. Claim 1 of the '670 Patent also claims "one or more ridge segments extending from said side wall around at least a portion of said lever so as to define a recess, wherein said lever is positioned within said recess. . . ."

77. As shown in Exhibit E, the Polymer Holsters have one or more ridge segments extending from the side wall around at least a portion of the lever so as to define a recess.

78. The Polymer Holsters also have a lever positioned within the recess.

79. Claim 1 of the '670 Patent also claims "an aperture formed in a portion of said side wall beneath at least a portion of said finger button portion of said lever, wherein said aperture is formed within said recess."

80. As shown in Exhibit E, the Polymer Holsters have an aperture formed in a portion of the side wall beneath at least a portion of the finger button portion of the lever.

81. The Polymer Holsters also have an aperture formed within the recess.

82. Bulldog's Polymer Holsters directly infringe claim 1 of the '670 Patent, literally, or under the doctrine of equivalents.

83. Bulldog's Polymer Holsters also directly infringe at least claims 2, 4-7, 9-10, and 12-20 of the '670 Patent, literally, or under the doctrine of equivalents.

84. Vista has suffered, and will continue to suffer, irreparable harm unless this Court enjoins Bulldog from infringing the '670 Patent pursuant to 35 U.S.C. § 283.

85. Vista has suffered damages as a result of Bulldog's infringement of the '670 Patent and is entitled to recover those damages pursuant to 35 U.S.C. § 284.

86. Bulldog's sales of the infringing holsters after Bulldog received Vista's demand letter dated June 20, 2016, Bulldog's misrepresentation concerning redesigning its holsters to make them noninfringing, and Bulldog's continued sales of infringing holsters through its dealers and distributors, constitutes willful infringement and Bulldog is liable for enhanced damages pursuant to 35 U.S.C. § 284.

87. Bulldog's disregard of Vista's repeated demands concerning Bulldog's ongoing infringement, Bulldog's misrepresentation concerning redesigning its holsters to make them noninfringing, and Bulldog's continued sales of infringing holsters through its

dealers and distributors, make this an exceptional case in which Bulldog is liable for Vista's attorney's fees pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

For the above reasons, Vista respectfully requests that this Court grant the following relief in its favor and against Bulldog:

(a) A judgment in favor of Vista that Bulldog has infringed (either literally or under the doctrine of equivalents) one or more claims of the '497 Patent and/or the '670 Patent;

(b) A permanent injunction enjoining Bulldog and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with it, from infringing the '497 Patent and/or the '670 Patent;

(c) A judgment and order requiring Bulldog to pay to Vista its damages, costs, expenses, and pre-judgment and post-judgment interest for Bulldog's infringement of the '497 Patent and/or the '670 Patent;

(d) A judgment and order finding that Bulldog engaged in willful infringement and ordering Bulldog to pay enhanced damages of three times the amount found or assessed;

(e) A judgment and order finding that this is an exceptional case and awarding reasonable attorney's fees to Vista; and

(f) Any and all such further relief as the Court deems just and proper.

Dated: September 6, 2018

VISTA OUTDOOR OPERATIONS, LLC

Respectfully Submitted,

/s/ Jeffrey H. Geiger _____

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