

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DYNAENERGETICS GMBH & CO. KG and
DYNAENERGETICS US, INC.,

Plaintiffs,

$$V_{\bullet}$$

HUNTING TITAN, INC. and HUNTING
ENERGY SERVICES, INC.,

Defendants.

Civil Action No: _____

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs DynaEnergetics GmbH & Co. KG and DynaEnergetics US, Inc. (collectively, “DynaEnergetics”) file this Complaint for patent infringement against Hunting Titan, Inc. and Hunting Energy Services, Inc. (collectively, “Defendants”) and, in support thereof, allege as follows:

THE PARTIES

1. Plaintiff DynaEnergetics GmbH & Co. KG (“DynaEnergetics GmbH”) is a corporation organized under the laws of Germany, with its headquarters at Kaiserstrasse 3, 53840 Troisdorf, Germany.

2. Plaintiff DynaEnergetics US, Inc. (“DynaEnergetics US”) is a corporation organized under the laws of the State of Colorado, with its headquarters at 2050 W. Sam Houston Pkwy S., Suite 1750, Houston, TX 77042-3659.

3. Upon information and belief, Defendant Hunting Titan, Inc. is a Texas corporation with a registered address of 11785 Highway 152, Pampa, Texas 79065, and a regular and established place of business at 143 Hill County Road 4361, Milford, Texas 76670. Defendant Hunting Titan Inc. may be served with process by serving its registered agent at

Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701-3136, or as otherwise authorized under applicable law.

4. Upon information and belief, Defendant Hunting Energy Services, Inc. is a Delaware corporation with its principal place of business at 2 Northpoint Drive, Suite 400, Houston, Texas 77060. Defendant Hunting Energy Services, Inc. may be served with process by serving its registered agent at Jerry D. Barrier, 2170 Buckthorne Plaza, Suite 400, The Woodlands, Texas 77380, or at Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808, or as otherwise authorized by applicable law.

5. Upon information and belief, Defendant Hunting Titan, Inc. is a subsidiary of Defendant Hunting Energy Services, Inc.

JURISDICTION AND VENUE

6. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. § 271.

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 1 *et seq.*

8. This court has personal jurisdiction over Defendants, and venue is proper in this District, because nearly all of Defendants' principal places of business are located within this District and because Defendants actively and regularly conduct business within the State of Texas and within this District. Further, upon information and belief, infringement is occurring within the State of Texas through Defendants' manufacture of the "H-2 Perforating SystemTM" at their Texas manufacturing facilities; within the State of Texas and this District through

Defendants' use of the H-2 Perforating SystemTM in field trials; and within the State of Texas and this District through Defendants' sales of or offers to sell the H-2 Perforating SystemTM.

9. Venue as to Defendants is thus proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

FACTS

10. DynaEnergetics is a leader in the field of well completion, perforating, well abandonment, and seismic technologies. DynaEnergetics has a long history of technological innovation, including innovation in the manufacture of detonators, detonating cords, perforating hardware, and complete perforating systems.

11. In connection with its research and development efforts, DynaEnergetics has developed a groundbreaking invention for a wireless detonator assembly, a perforating gun assembly, and a method of assembling the perforating gun assembly. This invention is currently protected by multiple United States patents, including U.S. Patent No. 9,581,422 (the "'422 Patent"), entitled "PERFORATING GUN AND DETONATOR ASSEMBLY." The '422 Patent was duly and legally issued on February 28, 2017 to DynaEnergetics GmbH & Co. KG. A true and accurate copy of the '422 Patent is attached hereto and incorporated herein by reference as **Exhibit A**.

12. DynaEnergetics makes, offers to sell, and sells a wireless detonator product that practices the '422 Patent. DynaEnergetics GmbH exclusively licenses DynaEnergetics US to make, offer to sell, and sell wireless detonator products that practice the '422 Patent in the United States. DynaEnergetics has been marking the covered products in accordance with 35 U.S.C. § 287 since at least as early as August 2017.

13. Defendants are competitors of DynaEnergetics, including in the field of perforating systems. Defendants have, upon information and belief, either alone or in concert, manufactured, used, sold, or offered to sell the Hunting Titan H-2 Perforating SystemTM in the United States, including within the State of Texas and within this District. Upon information and belief, the H-2 Perforating SystemTM infringes one or more claims of the '422 Patent, including at least Claims 1 and 5, as set forth in the claim chart attached hereto and incorporated herein by reference as **Exhibit B**.

14. Upon information and belief, Defendants have known of the '422 Patent and their infringing activities since at least as early as February 25, 2019. Further, upon information and belief, Defendants have had actual notice of the '422 Patent since at least as early as August 2017. *See DynaEnergetics GmbH & Co. KG v. Hunting Titan, Ltd.*, No. 4:17-cv-03784 (S.D. Tex.) (currently stayed).

15. Because Defendants are using infringing technology to compete directly with DynaEnergetics, they are causing irreparable harm to DynaEnergetics, thereby forcing DynaEnergetics to bring this lawsuit to protect its intellectual property.

COUNT I – INFRINGEMENT OF THE '422 PATENT

16. DynaEnergetics repeats and incorporates by reference the allegations contained in the foregoing paragraphs, as if stated fully herein.

17. DynaEnergetics is the owner of the '422 Patent, with all substantive rights in and to that patent, including the sole and exclusive right to prosecute this action and enforce the '422 Patent against infringers, and to collect damages for all relevant times.

18. Defendants have, either alone or in concert, directly infringed and continue to infringe the '422 Patent, either literally or through the doctrine of equivalents, by making, using,

importing, supplying, distributing, selling and/or offering for sale the H-2 Perforating System™ within the United States, in violation of 35 U.S.C. § 271(a).

19. Upon information and belief, Defendants have made and are continuing to make unlawful gains and profits from their infringement of the '422 Patent.

20. At least since February 25, 2019, Defendants have been on notice of, and have had knowledge of, the '422 Patent and of DynaEnergetics' allegations of infringement. Defendants' infringement of the '422 Patent has been willful and deliberate at least since this date.

21. DynaEnergetics has been damaged and irreparably harmed by Defendants' infringement of the '422 Patent for which DynaEnergetics is entitled to relief under 35 U.S.C. § 284. DynaEnergetics will continue to suffer damages and irreparable harm unless Defendants are enjoined preliminarily and permanently by this Court from continuing their infringement.

ATTORNEYS' FEES

22. Pursuant to 35 U.S.C. § 285, DynaEnergetics is entitled to and hereby demands its reasonable attorneys' fees in this case.

JURY DEMAND

23. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, DynaEnergetics respectfully requests a trial by jury of any issues so triable.

PRAYER FOR RELIEF

WHEREFORE, DynaEnergetics respectfully asks that the Court issue citation for Defendants to appear and answer and seeks the following additional relief:

A. that Defendants be declared to have directly infringed one or more of the claims of the '422 Patent under 35 U.S.C. § 271(a);

B. that the Court issue a preliminary and permanent injunction pursuant to 35 U.S.C. § 283 against the continuing infringements of the claims of the '422 Patent by Defendants, their officers, agents, employees, attorneys, representatives, and all others acting in concert therewith;

C. that the Court order an accounting for all monies received by or on behalf of Defendants and all damages sustained by DynaEnergetics as a result of Defendants' aforementioned infringements, that such monies and damages be awarded to DynaEnergetics, and that interest and costs be assessed against Defendants pursuant to 35 U.S.C. § 284;

D. that the Court declare that Defendants' infringement was and is willful from the time it became aware of the infringing nature of their product and award treble damages for the period of such willful infringement of the '422 Patent, pursuant to 35 U.S.C. § 284;

E. that the Court declare this an exceptional case and order that Defendants pay to DynaEnergetics its reasonable attorneys' fees and costs, pursuant to 35 U.S.C. § 285; and

F. that the Court award such further and other relief to DynaEnergetics as the Court deems just, together with its costs and disbursements in this action.

Dated: May 2, 2019

Respectfully submitted,

WOMBLE BOND DICKINSON (US) LLP

By: /s/ Barry J. Herman
Barry J. Herman (*pro hac vice* to be filed)
Maryland Federal Bar No. 26061
100 Light St, 26th Floor
Baltimore, MD 21202

Telephone: (410) 545-5830
Email: Barry.Herman@wbd-us.com

*Attorney-in-Charge for Plaintiffs DynaEnergetics
GmbH & Co., KG and DynaEnergetics US, Inc.*

OF COUNSEL:

WOMBLE BOND DICKINSON (US) LLP
Joshua Davis
Texas Bar No. 24059656
811 Main Street
Suite 3130
Houston, TX 77002
Telephone: 346-998-7810
Email: Joshua.P.Davis@wbd-us.com

WOMBLE BOND DICKINSON (US) LLP
Preston H. Heard (*pro hac vice* to be filed)
Georgia Bar No. 476319
271 17th Street, NW, Suite 2400
Atlanta, GA 30363
Telephone: (404) 888-7366
Email: Preston.Heard@wbd-us.com

WOMBLE BOND DICKINSON (US) LLP
Ana J. Friedman (*pro hac vice* to be filed)
North Carolina Bar No. 53117
One West Fourth Street
Winston-Salem, NC 27101
Telephone: (336) 747-6622
Email: Ana.Friedman@wbd-us.com

MOYLES IP, LLC
Lisa J. Moyles (*pro hac vice* to be filed)
Connecticut State Bar No. 425652
970 Beaver Dam Road
Stratford, CT 06614
Telephone: (203) 258-6675
Email: lmoyles@moylesip.com