

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
KNOXVILLE DIVISION

MALIBU BOATS, LLC,

Plaintiff

v.

SKIER'S CHOICE, INC.,

Defendant.

Civil Action No.

**Jury Trial Demanded**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Malibu Boats, LLC (“Malibu” or “Plaintiff”) hereby alleges as its Complaint against Defendant Skier’s Choice, Inc. (“Skier’s Choice” or “Defendant”) as follows:

**INTRODUCTION**

1. Malibu is the market share leader in the inboard sport boat industry. In recent years, Malibu has defended its position from direct competitors, like Skier’s Choice, through the development and application of Malibu’s award-winning innovations, some of which are embodied in Malibu’s commercially available wake modification systems marketed under the trade name SURF GATE®. The U.S. Patent Office has awarded Malibu several patents on innovative aspects of its wake surf technologies, including U.S. Patent No. 10,322,777 (“the ’777 Patent”), which issued on June 18, 2019. In response to the success of Malibu’s SURF GATE®, Skier’s Choice introduced surf systems on both its Moomba and Supra lines of boats that employed aspects of Malibu’s patented wake surf technology and that infringe Malibu’s intellectual property. These infringing systems have been and continue to be installed by Skier’s Choice on boats that Skier’s Choice has sold and continues to sell to consumers in the inboard

sport boat industry. Malibu is entitled to compensation for Skier's Choice's infringement and to an injunction precluding Skier's Choice from selling boats or features that infringe Malibu's valuable intellectual property.

2. Among Malibu's many innovations in the design, manufacture, and marketing of high performance inboard water boats is its revolutionary wake surf technology, for which it has been awarded several patents, including the '777 Patent. The '777 Patent enables users to surf on either side of the boat's wake at the push of a button. Previously, boaters who sought to engage in wake surfing had to first cumbersome configure their boats. For example, if a boater wanted to surf on a port side wake, he or she had to fill ballast tanks or bags on the port side with hundreds of pounds of water, and often shift additional non-water ballast, like passengers, to the port side of the boat. All this ballast on the port side caused the boat to lean or list significantly, which created a larger, more pronounced, surf-quality wake on the weighted (in this example, the port) side of the boat only. A similar configuration was needed if a boater wanted to surf on a starboard side, but instead of the port side, all the ballast was directed to the starboard side. Either way, the configuration was cumbersome, time-consuming, and potentially annoying for passengers. Worse still, if a boater wanted to switch the surf wave from one side to the other, he or she would have to transfer substantially all ballast and passengers to the other side of the boat – a process that takes a substantial amount of time. Malibu's wake-surf technology alleviates this time-consuming and cumbersome process. Boats manufactured by Malibu with SURF GATE® allow boaters, at the touch of a button, to configure a boat to create a better-quality surf wave on a desired side of the boat in a matter of seconds without having to shift passengers or weight. Moreover, boats with SURF GATE® can change from a configuration that created a better-

quality surf wave on one side of the boat to the other in a matter of seconds. Such configurations vastly improve the usability of the boats for wake surfing and allow surfers to perform previously impossible moves.

3. Malibu's introduction of SURF GATE® garnered significant public attention, and SURF GATE® won the Watersports Industry Association's Innovation of the Year award in 2013.

4. SURF GATE® has received widespread praise in the industry since its release. For example, a May 2013 review of SURF GATE® in Wakeboarding Magazine noted that "the possibilities with Surf Gate are absolutely revolutionary. You can instantly switch which side of the boat you want your wave, so transfers from side to side are now a reality."<sup>1</sup> An October 2013 article in Wakeboarding Magazine discusses "new surf-specific boat technology" including SURF GATE® (and Nautique, which has licensed Malibu's patented technology), stating that the technology has brought wakesurfing "leaps and bounds in the direction of progression," and that certain moves were "previously near-impossible prior to the Malibu Surf Gate."<sup>2</sup> A September 2015 article in Boarders Magazine describes the different wakesurfing technologies offered performance sport boat manufacturers, including Malibu and licensees of its patented wakesurfing technology. The article comments that

"Malibu's patented Surf Gate technology has helped shape a new concept for wake surf boat development by allowing a wakesurfer to transfer wake to wake, frontside to backside surfing, in a second. Since then every other boat company has created a similar sort of system that has been less focused on an individually weighted down starboard or port side, but rather an equal

---

1 <http://www.wakeboardingmag.com/blog/wakeboarding-brand-channel/malibu-wakeboard-boats/2013/05/24/howit-works-surf-gate>.

2 <https://www.wakeboardingmag.com/blog/features/2013/10/17/how-to-wakesurf-transfer-on-the-fly>.

or at least mostly equal weighted boat that can change from side to side, regular to goofy, within seconds.”<sup>3</sup>

5. Malibu’s SURF GATE® has also enjoyed tremendous commercial success.

Malibu currently sells thousands of boats equipped with SURF GATE® each year, and the take rate of Malibu’s SURF GATE® is nearly 100% among Malibu buyers.

6. In response to the success of Malibu’s SURF GATE®, Skier’s Choice introduced surf systems on both its Moomba and Supra lines of boats, including the Moomba Flow and Supra Swell systems, that employed aspects of Malibu’s patented wake surf technology, including redirection of at least water on one side to modify and improve the wake on the opposite side. Skier’s Choice subsequently announced the Moomba Flow 2.0 and 3.0 surf systems, and the Supra Swell 2.0 and 3.0 surf systems. Skier’s Choice’s surf systems infringe Malibu’s intellectual property rights.

7. The industry has recognized the pioneering invention of Malibu’s wake surf technology and the patents that enable it. Major industry players like Nautique/Correct Craft, Chaparral, Tigé, and Mastercraft have entered into license agreements with Malibu regarding certain of Malibu’s wake surf technology patents that, among other things, permit those companies to make and use wake modification systems that redirect water on one side of the boat to improve the wake surfing on the other side. Skier’s Choice has refused to do so, opting to infringe Malibu’s patents instead of paying for the right to use Malibu’s inventions. Malibu files this lawsuit to redress Skier’s Choice’s infringement.

---

<sup>3</sup> <http://boardersmag.com/articles/just-press-surf-a-new-era-in-wake-surf-towboat-technology>.

8. Malibu previously filed a complaint for patent infringement of three other patents covering aspects of its wake-surfing technology in a case currently pending in this District, Case No. 3:18-cv-00015-TAV-HBG (“*Skier’s Choice I*”). In *Skier’s Choice I*, Malibu asserts claims of infringement of U.S. Patent No. 9,260,161 (“the ’161 Patent”), U.S. Patent No. 8,578,873 (“the ’873 Patent”), and U.S. Patent No. 9,199,695 (“the ’695 Patent”) against Skier’s Choice. That case remains pending.

#### **PARTIES**

9. Malibu is a Delaware corporation with its principal place of business at 5075 Kimberly Way, Loudon, Tennessee 37774-6469.

10. Skier’s Choice is an Oklahoma corporation with its principal place of business at 1717 Henry G Lane St., Maryville, Tennessee 37801-3701.

#### **JURISDICTION AND VENUE**

11. This action arises under the patent laws of the United States, Title 35 of the United States Code, including, but not limited to, 35 U.S.C. § 271.

12. This court has original jurisdiction over patent infringement claims under 28 U.S.C. § 1331 and 1338(a).

13. Personal jurisdiction over Skier’s Choice is proper because Skier’s Choice is domiciled, conducts business, and has committed acts of patent infringement in Tennessee.

14. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) – (c) and 1400(b) because Skier’s Choice resides, has committed acts of infringement, and has a regular place of business in this judicial district.

## RELATED CASES

15. In *Skier's Choice I*, Malibu asserts claims of infringement of the '161, '873 and '695 Patents against the same defendant as in this case, Skier's Choice, Inc. The application leading to the '777 Patent, U.S. Application Serial No. 14/075,978 ("the '978 Application"), claims priority to the application from which the '873 Patent issued (U.S. Application Serial No. 13/830,356) and the application from which the '161 Patent issued (U.S. Application Serial No. 13/545,969). *Skier's Choice I* was filed on January 12, 2018, and remains pending.

16. In two earlier cases concluded in this District, Case No. 3:15-CV-00276-TAV-HBG ("MasterCraft I") and Case No. 3:16-cv-00082-TAV-HBG ("MasterCraft II"), Malibu asserted claims for infringement of the '161 Patent and the '873 Patent against MasterCraft Boat Company, LLC. The Mastercraft I and Mastercraft II cases were both dismissed by stipulation of the parties on May 10, 2017, after Mastercraft entered into a royalty-bearing license agreement with Malibu.

17. In another earlier concluded case in this District, Case No. 3:13-CV-00656-TAV-HBG ("the Nautique case"), Malibu asserted a claim of infringement of the '873 Patent against a different defendant, Nautique Boat Company, Inc. The Nautique case was filed on October 31, 2013. Malibu amended its complaint to add a claim for infringement of the '873 Patent on December 13, 2013. The Nautique case was dismissed by stipulation of the parties on February 17, 2015, after Nautique entered into a royalty bearing license agreement with Malibu.

## GENERAL ALLEGATIONS

18. The '777 Patent, which issued on June 18, 2019, is titled "Surf Wake System for A Watercraft." A true and correct copy of the '777 Patent is attached as Exhibit A.

19. Malibu owns all rights, title, and interest in the '777 Patent.
20. The '777 Patent is valid and enforceable.
21. Skier's Choice manufactures, offers for sale, and sells within the United States inboard water-sport boats under the Supra and Moomba lines of boats. Skier's Choice has equipped and continues to equip its inboard water-sports boats with its own surf systems, including at least boats that include the Supra Swell 3.0 surf systems, and boats that include the Moomba Flow 2.0, and Flow 3.0 surf systems. Skier's Choice offers the Supra Swell 3.0 surf system on at least the following models of inboard water-sport boats: SR, SA, SL, and SE. Skier's Choice offers the Moomba Flow, Flow 2.0 and/or Flow 3.0 surf system on at least the following models of inboard water-sport boats: Helix, Max, Mondo, Craz, Mojo, Makai, and Craz Pro.
22. Skier's Choice is presently advertising and offering for sale in the United States inboard water-sports boats equipped with the Supra Swell and Moomba Flow surf systems.
23. The public has been on notice of the '777 Patent since at least as early as January 30, 2019, when the USPTO entered into public record the Notice of Allowance for the '978 Application. On May 29, 2019, the USPTO again notified the public by entering into public record an Issue Notification indicating that the '777 Patent would be issued on June 18, 2019.
24. On June 18, 2019, the U.S. Patent and Trademark Office issued the '777 Patent to Malibu.
25. On information and belief, Skier's Choice learned of the '777 Patent prior to the filing of the present complaint. At least as early as July 28, 2017, individuals from Malibu

contacted Brad Denning, CEO of Skier's Choice, providing notice of Malibu's surf system patents, including the '978 Application.

26. Despite knowing of the '777 Patent and that its surf systems infringe the '777 Patents, Skier's Choice has and continues to infringe the '777 Patent through making, using, selling, and/or offering for sale within the United States the infringing products, through importing into the United States the infringing products, and/or through inducing or contributing to infringement by Skier's Choice's customers.

#### **CLAIMS FOR RELIEF**

27. The allegations in the following Count I have evidentiary support or will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

28. Malibu contends that at least boats that include the Supra Swell 3.0 surf systems, and boats that include the Moomba Flow 2.0, and Flow 3.0 surf systems (collectively, the "Accused Products") infringe at least one valid and enforceable claim of the '777 Patent, as discussed in Count I, and that each element of at least one claim of the '777 Patent is literally present in the Accused Products or their use. If the Court's constructions or other determinations indicate that an element of one of the claims discussed below is not literally present, Malibu contends that each such element is present under the doctrine of equivalents and reserves its right to provide more detailed doctrine of equivalents contentions after discovery and/or a claim construction order from the Court.

29. The Accused Products are representative of Skier's Choice's infringing products and are not intended to be exhaustive. Malibu expects that additional infringing products will be identified through discovery. Furthermore, the claims of the '777 Patent identified below are



merely representative, and do not include an exhaustive list of claims infringed by the Accused Products.

**COUNT I: INFRINGEMENT OF U.S. PATENT NO. 10,322,777**

30. Malibu repeats and re-alleges each and every allegation contained in the preceding paragraphs with the same force and effect as if repeated in full here.

31. Skier's Choice infringes the '777 Patent by, inter alia, making, using, selling, and/or offering for sale within the United States, and/or importing into the United States the Accused Products and/or components covered by one or more claims of the '777 Patent. Skier's Choice has acted without authority or license from Malibu, in violation of 35 U.S.C. § 271(a).

32. For example, and without limitation, Skier's Choice makes the Accused Products in the United States. *See* <https://www.skierschoice.com/careers/> ("The Skier's Choice manufacturing facility is located in Maryville, Tennessee...."). Upon information and belief, Skier's Choice uses the Accused Products within the United States, for example, for demonstration, testing, and development purposes. Further, Skier's Choice sells and offers for sale the Accused Products within the United States through a network of dealers. *See* <https://www.moomba.com/dealerships>.

33. Skier's Choice contributorily infringes one or more claims of the '777 Patent in violation of 35 U.S.C. § 271(c). Skier's Choice sells and offers to sell products or components knowing that they, alone or in combination with other components, infringe the '777 Patent and thereby contribute to others' infringement of the '777 Patent. Skier's Choice knows its products and components are especially made or especially adapted for use in creating a surf wake in a manner that infringes the '777 Patent and are not a staple item, article, or commodity of

commerce suitable for substantial noninfringing use. Skier's Choice has continued these actions despite becoming aware of the '777 Patent and its infringement.

34. On information and belief, Skier's Choice infringes the '777 Patent by supplying or causing to be supplied in and from the United States all or a substantial portion of the components of surf systems, where such components are uncombined in whole or in part, in such a manner as to actively induce the combination of such components outside of the United States in a manner that would infringe the patent if such combination occurred inside the United States, and/or by supplying or causing to be supplied in and from the United States one or more components that are especially made or especially adapted for use in infringing surf systems and that are not staple articles of commodities of commerce suitable for substantial noninfringing use, where such components are uncombined in whole or in part, knowing that such components are so made or adapted and intending that such components will be combined outside of the United States in a manner that would infringe the patent if such combination occurred inside the United States. Skier's Choice has acted without authority or license from Malibu, in violation of 35 U.S.C. § 271(f). Skier's Choice has continued these actions despite becoming aware of the '777 Patent and its infringement.

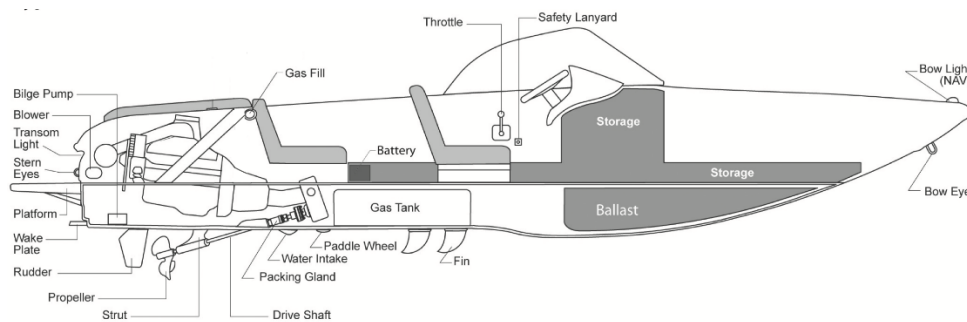
35. For example, Skier's Choice manufactures, uses, sells, and offers for sale products, including the Accused Products, that infringe Claim 1 of the '777 Patent. Claim 1 of the '777 Patent recites:

An inboard water-sports boat comprising:

a hull including a transom, the hull housing an engine configured to propel the hull through water, wherein the hull is configured to produce a wake having eventually diverging port-side and starboard-side waves when the hull is propelled through water;

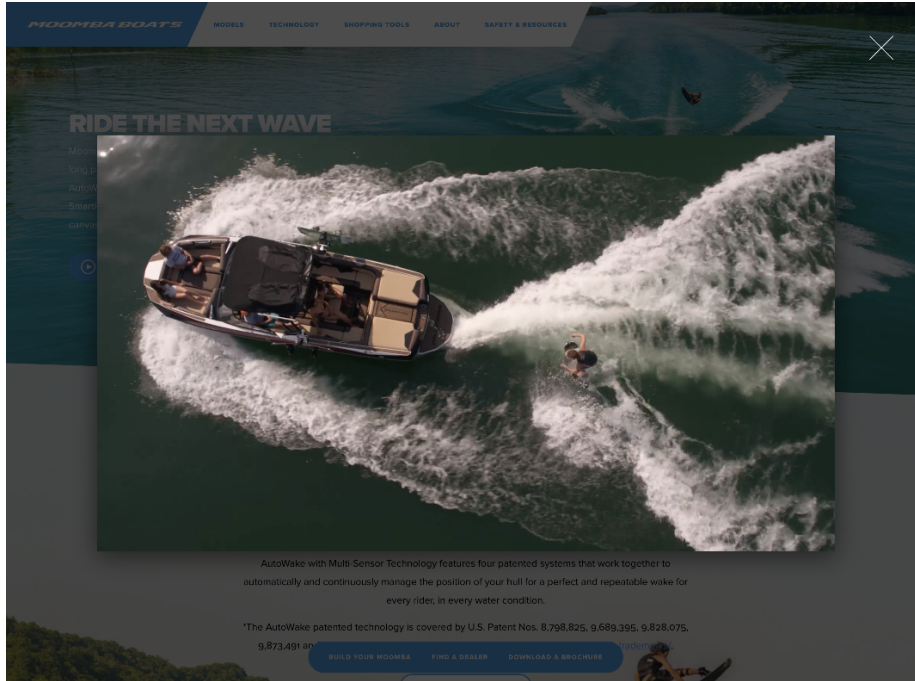
- a ballast system configured to add and remove water ballast;
  - a rudder responsive to a steering mechanism to steer the hull when the hull is propelled through water; and
  - a surf system configurable by an operator purposefully selecting which of the port-side wave and the starboard-side wave to enhance to improve surfing thereon, the surf system comprising:
    - a port-side deployable element movable between a deployed position and an at least substantially retracted position, wherein at least a portion of the port-side deployable element when in the deployed position is configured to redirect water to enhance the starboard-side wave of the wake to have a face that is substantially smoother than a face of the port-side wave;
    - a starboard-side deployable element movable between a deployed position and an at least substantially retracted position, wherein at least a portion of the starboard-side deployable element when in the deployed position is configured to redirect water to enhance the port-side wave of the wake to have a face that is substantially smoother than a face of the starboard-side wave;
    - a user interface configured to receive a user command to change from enhancing the starboard-side wave to the port-side wave or to change from enhancing the port-side wave to the starboard-side wave, wherein the user interface comprises a first user input element configured to receive a selection of enhancing the starboard-side wave, and wherein the user interface comprises a second user input element configured to receive a selection of enhancing the port-side wave;
    - a first actuator configured to move the port-side deployable element to the deployed position in response to the user command to change from enhancing the port-side wave to the starboard-side wave; and
    - a second actuator configured to move the starboard-side deployable element to the deployed position in response to the user command to change from enhancing the starboard-side wave to the port-side wave;
- wherein the inboard water-sports boat is configured to change from enhancing the starboard-side wave to the port-side wave or to change from enhancing the port-side wave to the starboard-side wave while the inboard water-sports boat is moving at a speed suitable for surfing.

36. The Accused Products are inboard water-sports boats having a hull including a transom. The hull houses an engine configured to propel the hull through water. The water-sports boat further includes a rudder responsive to a steering mechanism to steer the hull when the hull is propelled through water as shown in Figure 1 below. *See* [https://crm.skierschoice.com/files/documents/2018/10/17/2019\\_Moomba\\_Owners\\_Manual.pdf](https://crm.skierschoice.com/files/documents/2018/10/17/2019_Moomba_Owners_Manual.pdf), p. 78.



*Figure 1*

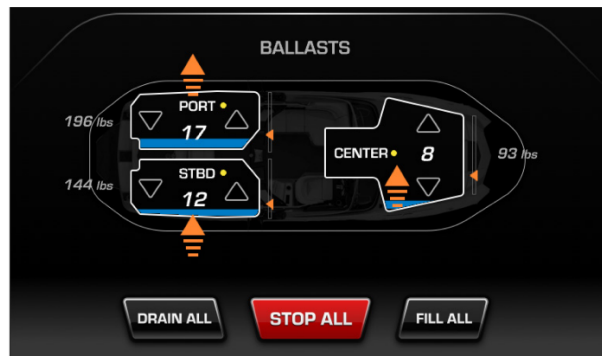
37. The hull is configured to produce a wake having eventually diverging port-side and starboard-side waves when the hull is propelled through water, as shown in Figure 2 below, which is a screenshot of a promotional video on Skier's Choice's website for surf systems provided by Skier's Choice. *See* <https://www.moomba.com/technology/wake-surf-systems>.



*Figure 2*

38. The Accused Products include a ballast system configured to add and remove water ballast. For example, Figure 3 below from the 2019 Supra Vision Touch Owner's Manual for the Accused Products shows an interface for a ballast system on the Accused Products that is configured to add and remove water ballast from the inboard water-sports boat. *See* [https://crm.skierschoice.com/files/documents/2018/11/21/2019%20Supra%20Display%20Manua](https://crm.skierschoice.com/files/documents/2018/11/21/2019%20Supra%20Display%20Manual.pdf) l.pdf, at p. 39.

### Ballasts



Ballast is used to add displacement to the craft in order to make the waves or wakes larger for specific watersports.

Touch the up or down arrow to begin filling or emptying the ballast. It will graphically begin filling or draining with water, and the added weight will be shown.

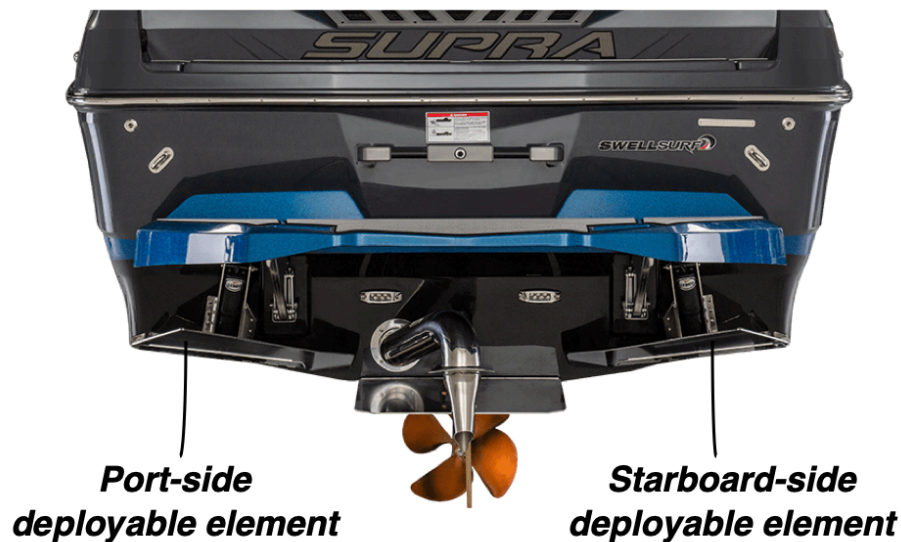
Alternately, touch Fill All or Drain All to fill/drain all three ballast bags at the same time.

Stop All will stop the filling or draining in all ballast bags at the same time.

*Figure 3*

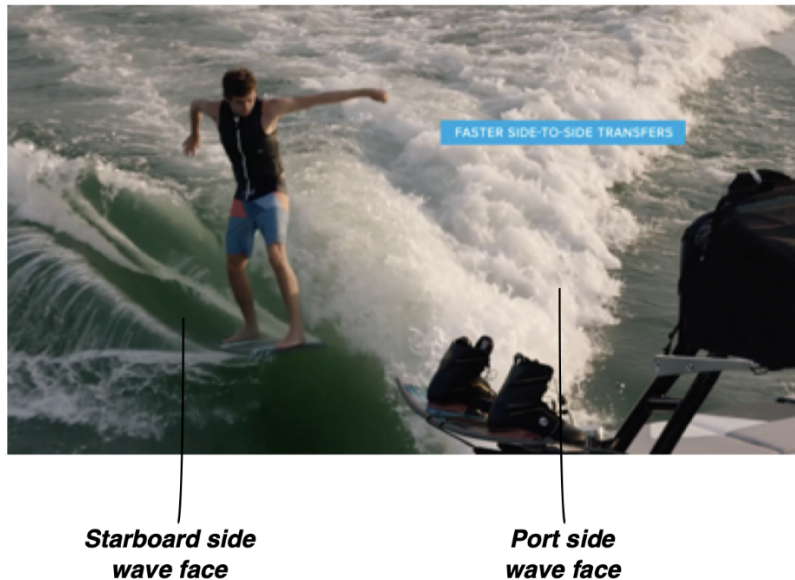
39. The Accused Products are inboard-water sports boats that include a surf system configurable by an operator purposefully selecting which of the port-side wave and the starboard-side wave to enhance to improve surfing thereon. For example, Accused Products include Swell and Flow surf systems that allow an operator to “[t]ouch a directional Surf icons [sic] to select surfing either on the Left or Right.” *See* 2019 Supra Vision Touch Owner’s Manual, which is available on Skier’s Choice’s website at <https://crm.skierschoice.com/files/documents/2018/11/21/2019%20Supra%20Display%20Manual.pdf>, at p. 37.

40. As shown in Figure 4 below, the surf system of the Accused Products feature both a port-side deployable element and a starboard-side deployable element that are movable between deployed positions and substantially retracted positions. *See* <https://www.supraboats.com/technology/wake-surf-systems>.



*Figure 4*

41. At least a portion of the port-side deployable element is configured to redirect water to enhance the starboard side wave of the wake to have a face that is substantially smoother than a face of the port-side wave when in the deployed position. For example, the 2019 Moomba Display Manual states that “Moomba provides a way to create the optimal surf wave with their Surf System tabs.... When Surf Right is chosen, the left tab will deploy to its surf setting.” See Moomba Display Manual 2019, available at <https://crm.skierschoice.com/files/documents/2018/11/21/2019%20Moomba%20Display%20Manual.pdf>. As shown in Figure 5 below, when the port-side deployable element is in the deployed position, the starboard-side wave of the wake has a face that is substantially smoother than a face of the port-side wave. See <https://www.moomba.com/technology/wake-surf-systems>.



*Figure 5*

42. At least a portion of the starboard-side deployable element is configured to redirect water to enhance the port-side wave of the wake to have a face that is substantially smoother than a face of the starboard-side wave when in the deployed position. For example, the 2019 Moomba Display Manual states that “[w]hen Surf Left is selected, and the speed is below 15 mph, then the starboard tab is active and deployed to its surf setting.” See Moomba Display Manual 2019, available at <https://crm.skierschoice.com/files/documents/2018/11/21/2019%20Moomba%20Display%20Manual.pdf>, at p. 8. As shown in Figure 6 below, when the starboard-side deployable element is in the deployed position, the port-side wave of the wake has a face that is substantially smoother than a face of the port-side wave. See <https://www.moomba.com/technology/wake-surf-systems>.





*Figure 6*

43. The surf system of the Accused Products includes a user interface configured to receive a user command to change from enhancing the starboard-side wave to the port-side wave or to change from enhancing the port-side wave to the starboard-side wave. The user interface of the Accused Products includes a first user input element configured to receive a selection of enhancing the starboard-side wave and a second user input element configured to receive a selection of enhancing the port-side wave. For example, Accused Products include a user interface that allows a user to “[t]ouch a directional Surf icons [sic] to select surfing either on the Left or Right.” See 2019 Supra Vision Touch Owner’s Manual. As shown in Figure 7, the user interface includes first and second user input elements to receive a selection of enhancing the port-side wave and the starboard-side waive.

## Swell™ Surf and Plates

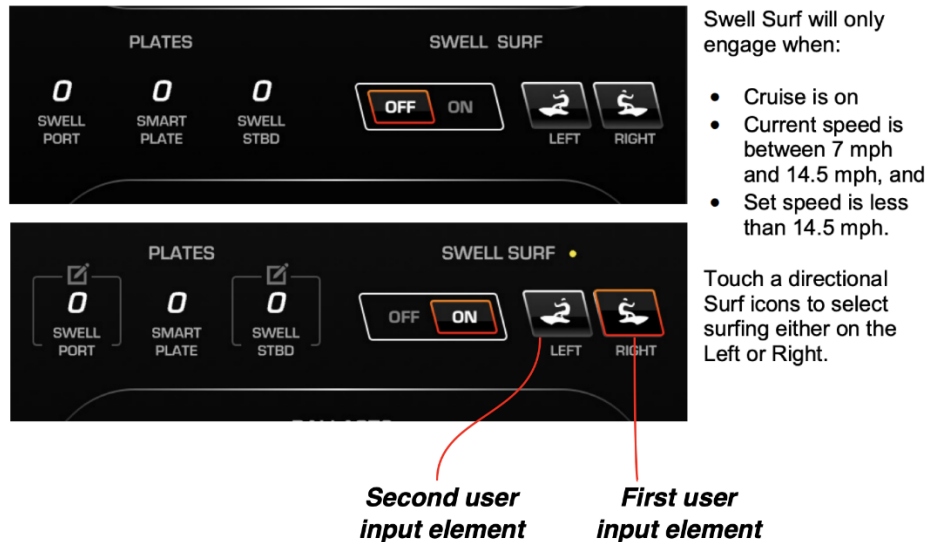


Figure 7

44. The surf system of the Accused Products includes a first actuator configured to move the port-side deployable element and a second actuator configured to move the starboard-side deployable element, as shown in Figure 8 below. The first actuator and second actuator are configured to move the port-side deployable element and starboard-side deployable element respectively to the deployed position in response to the user command to change from enhancing the starboard-side wave to the port-side wave. For example, Accused Products include a user interface that allows a user to “[t]ouch a directional Surf icons [sic] to select surfing either on the Left or Right.” See 2019 Supra Vision Touch Owner’s Manual. “When Surf Left is selected, and the speed is below 15 mph, then the starboard tab is active and deployed to its surf setting.” Similarly, “[w]hen Surf Right is selected, and the speed is below 15 mph, the port tab is active and deployed to its surf setting.” See Moomba Display Manual 2019.



*Figure 8*

45. The Accused Products are configured to change from enhancing the starboard-side wave to the port-side wave or to change from enhancing the port-side wave to the starboard-side wave while the inboard water-sports boat is moving at a speed suitable for surfing. For example, Skier's Choice advertises that surf systems of the Accused Products are "[p]erfect for riders who like to transfer from side to side." See <https://www.supraboats.com/technology/wake-surf-systems>. Promotional videos on Skier's Choice's website show the Accused Products changing from enhancing the starboard-side wave to the port-side wave or changing from enhancing the port-side wave to the starboard-side wave while the water-sports boat is moving at a speed suitable for surfing, as shown in the screenshots of Figure 9 below.



*Figure 9*

46. Malibu has suffered damages as a result of Skier's Choice's infringement of the '777 Patent, including sales that Malibu lost as a result of Skier's Choice's infringement. Further, Malibu is entitled to damages adequate to compensate for the infringement, in no event less than a reasonable royalty for the use made of the invention by the infringer, together with interest and costs as fixed by the court, pursuant to 35 U.S.C. § 284.

47. Skier's Choice's infringement, inducement of infringement, and contributory infringement is literal infringement or, in the alternative, infringement under the doctrine of equivalents.

48. Skier's Choice's acts of infringement have caused and, unless enjoined by this Court, will continue to cause Malibu to sustain irreparable damage, loss, and injury, for which Malibu has no adequate remedy at law. These include the loss of customer goodwill resulting from infringement and impairment of Malibu's reputation as an innovator if Skier's Choice is permitted to practice Malibu's patents.

49. Skier's Choice will continue to derive and receive advantages, gains, and profits from its infringement in an amount that is not presently known to Malibu.

50. Upon information and belief, Skier's Choice's infringement of the '777 Patent has been and continues to be deliberate and willful. In committing these acts of infringement, Skier's Choice committed egregious misconduct including, for example, acting despite knowing that its actions constituted infringement of a valid patent, or recklessly disregarding the fact that its actions constituted an unjustifiably high risk of infringement of a valid and enforceable patent.

51. Skier's Choice's infringement of the '777 Patent was and is deliberate and willful, entitling Malibu to increased damages under 35 U.S.C. § 284 and to attorney fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

52. Judgment in favor of Malibu that Skier's Choice has infringed the '777 Patent;

53. Awarding Malibu damages based on Skier's Choice's infringement of the '777 Patent in an amount sufficient to compensate Malibu, as well as enhanced damages pursuant to 35 U.S.C. § 284 awarded for Skier's Choice's willful, wanton, and deliberate infringement or otherwise;

54. Declaring that this is an exceptional case under 35 U.S.C. § 285 and awarding Malibu its attorneys' fees and costs in this action;

55. Assessing prejudgment interest on damages; and

56. Awarding Malibu such other and further relief as the Court deems just and equitable.

Dated: June 19, 2019

By: s/Matthew M. Googe  
MATTHEW M. GOOGE – TN BPR No. 030164  
MICHAEL E. ROBINSON – TN BPR No. 24681  
ROBINSON IP LAW, PLLC  
9724 Kingston Pike, Suite 1102  
Knoxville, TN 37922  
Phone: (865) 978-6480  
Facsimile: (865) 978-6493  
mgooge@robinsoniplaw.com  
rrobinson@robinsoniplaw.com

DARIN W. SNYDER – Cal. S.B. # 136003  
DAVID S. ALMELING – Cal. S.B. # 235449  
CAMERON W. WESTIN – Cal. S.B. # 290999  
*pro hac vice application forthcoming*  
O'MELVENY & MYERS LLP  
Two Embarcadero Center, 28<sup>th</sup> Floor  
San Francisco, CA 94111-3823  
Phone: (415) 984-8700  
Facsimile: (415) 984-8701  
dsnyder@omm.com  
dalmeling@omm.com  
cwestin@omm.com

Attorneys for Plaintiff  
MALIBU BOATS, LLC