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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

GUARDIAN DEFENSE, LLC,

Plaintiff,

v.

FALKOR SID, INC.,

Defendant.

Civil No.

COMPLAINT

JURY TRIAL DEMANDED

Guardian Defense, LLC (“Guardian”), by and through its attorneys, for its complaint against defendant Falkor SID, Inc. (“Falkor”), alleges as follows:

PRELIMINARY STATEMENT

1. This is an action for infringement of Guardian’s United States Patent No. 10,330,410 based on Falkor’s unauthorized and willful commercial manufacture, use, importation, offer for sale, and sale of the Falkor Petra .300 Win Mag (the “Petra”) in the United States.

JURISDICTION

2. This court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Personal jurisdiction over Falkor is proper in this District because it is organized and existing under the laws of the State of Montana, on information and belief its principal place of business is in Montana, and it has derived substantial revenue from the sales of the Petra in the State of Montana.

VENUE

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

PARTIES

5. Guardian is a limited liability company formed under the laws of the State of Montana that does business in the State of Montana. Guardian develops firearms.

6. Falkor is a Montana corporation. On information and belief, Falkor's principal place of business is at 2902 Highway 93 North Kalispell, MT 59901. Falkor is a firearms manufacturer.

FACTS

A. The '410 Patent

7. United States Patent 10,330,410 (the "'410 Patent"), entitled "Automatic/Semi-Automatic Rifle Assembly for Large Caliber Belted Cartridges," was duly and legally issued on June 25, 2019 and names Brandon W. Miller, Dean G. Grommet, and Joshua R. Boyce as the inventors (the "Inventors"). Attached as Exhibit 1 is a true and correct copy of the '410 Patent.

8. The '410 Patent claims, among other things,

a. Claim 1:

1. An automatic or semi-automatic firearm assembly configured for firing a belted cartridge, the firearm assembly comprising:

a gas operating system for automatic action cycling;

an upper receiver assembly configured for receiving magazine-fed belted cartridges and

- for ejecting spent cartridge casings through an ejection port;
- an elongate firing pin defining a central axis;
- an elongate bolt carrier having a central bore, a posterior end configured to interface the firing pin, and an anterior end configured to interface a bolt assembly partially disposed within the central bore, the bolt assembly operative with the firing pin and including a bolt and a bolt extractor;
- a bushing configured to interface the bolt carrier and limit travel rearward of the bolt carrier during automatic action cycling;
- a charging handle inserted into a distal end of the upper receiver assembly above the central axis, the charging handle slidable parallel to the central axis into the upper receiver assembly;
- and
- a barrel chamber having anterior and posterior ends for receiving the belted cartridge, the barrel chamber having a wall thickness between about 0.250 to 0.350 inches, wherein the barrel chamber includes a counter bore at its posterior end to interface the belted portion of the belted cartridge, and wherein the charging handle is configured to engage the bolt assembly for manual action cycling to position an initial belted cartridge within the barrel chamber.

b. Claim 3:

3. The firearm assembly of claim **1**, wherein the gas operating system is sized and configured for a belted cartridge.

c. Claim 5:

5. The firearm assembly of claim 1, further comprising a lower assembly configured for engaging the upper receiver assembly, the lower assembly having an overall increased length in the range of about 0.90 inches to 1.5 inches when compared to the overall length of a lower assembly in an AR-10 firearm.

d. Claim 6:

6. The firearm assembly of claim 1, wherein the bolt extractor includes a groove having a radius in the range of about 0.260 inches to 0.270 inches.

e. Claim 7:

7. The firearm assembly of claim 1, wherein the bolt has a bolt face having a diameter in the range of 0.530 inches to 0.540 inches.

f. Claim 8:

8. The firearm assembly of claim 1, wherein the firing pin has an overall increased length in the range of about 1.5 inches to 1.85 inches when compared with the shaft of an AR-10 firing pin.

g. Claim 13:

13. The firearm assembly of claim 1, further comprising a detachable lower assembly configured for engaging the upper receiver assembly, the lower assembly configured to have a magazine attached thereto for supplying ammunition from the magazine to the upper receiver assembly.

9. Guardian is the assignee of the entire right, title, and interest in the ‘410 Patent.

10. The ‘410 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

B. Falkor Steals Guardian’s Design

11. The Inventors behind the ‘410 Patent were the first in the world to develop an assault-style rifle chambered for .300 Winchester Magnum (“.300WM”) that was not side charging and that incorporated many off-the-shelf components.

12. The incorporation of off-the-shelf components was critical—in selecting new weapons to field, the United States Department of Defense (“DOD”) looks more favorably upon weapons that are easy to repair, e.g., weapons with as many off-the-shelf components as possible.

13. The firearm was developed with the intent to market it to the DOD.

14. In pursuit of this goal, Guardian approached Falkor regarding a potential partnership. Guardian allowed Falkor to test fire three prototype .300WM rifles Guardian had created implementing the technology contained in the yet-to-issue ‘410 Patent.

15. Falkor was impressed by the prototype weapons; so much so, in fact, that Falkor requested to study the guns. Guardian lent the guns to Falkor for about a week.

16. On information and belief, during the time in which Falkor possessed the prototype rifles, Falkor's engineers were analyzing and reverse engineering the weapons.

17. A month or two after borrowing the weapons from Guardian, Falkor informed Guardian that it was unwilling to proceed with their relationship as initially contemplated. Instead, Falkor proposed that Guardian supply parts to Falkor for a "new" rifle that Falkor had "developed."

18. In conjunction with this proposal, Falkor sent to Guardian schematics containing the design for a "new" rifle.

19. The rifle in Falkor's schematics was not new. The drawings showed a .300WM weapon system that was identical to, or immaterially different from, the .300WM weapon system developed by Guardian that Guardian had lent to Falkor.

20. Guardian immediately informed Falkor of the existence of Guardian's patent applications and that Falkor's design likely infringed those applications.

21. Falkor was unconcerned. Rather than cease its infringing conduct or attempt to license or purchase the technology it had stolen, Falkor, in full

knowledge of Guardian’s patent rights, began mass producing the Petra for retail sale.

C. Falkor’s Infringing Activities and Products

22. Falkor has and continues to infringe the ‘410 Patent by making, selling, and offering for sale the Petra in the United States.

23. On information and belief, Falkor manufactures the Petra in the State of Montana in the United States. The Petra is an assault-style semi-automatic rifle chambered for a .300WM.¹



Fig. 1—The Falkor Petra²

24. The .300WM is a belted, bottlenecked magnum rifle cartridge used for target shooting, for hunting large game, and by the military.

¹ <https://falkordefense.com/rifles/petra/>.

² <https://falkordefense.com/rifles/petra/>.



Fig. 2—The 300WM³

25. The Petra comprises, in part, the following:
- a. a gas operating system for automatic action cycling configured for a belted cartridge;
 - b. an upper receiver assembly configured for receiving magazine-fed belted cartridges;
 - c. a lower receiver configured to receive a magazine;
 - d. a lower receiver is configured for engaging the upper receiver;
 - e. an elongate firing pin defining a central axis;
 - f. an ejection port configured to eject spent cartridge casings;
 - g. an elongate bolt carrier having a central bore that interfaces with the firing pin via the posterior end;
 - h. an anterior end of the bolt carrier configured to interface a bolt assembly partially disposed within the central bore;
 - i. a bolt and bolt extractor;

³ <https://nexusammo.com/product/300-win-mag-220gr-hpbt-match/>.

- j. upper and lower relief apertures cut in the bolt carrier;
 - k. a charging handle, slidable parallel to the upper receiver assembly's central axis, configured to engage the bolt assembly for manual action cycling to position an initial belted cartridge within the barrel chamber;
 - l. a bushing configured to limit rearward travel of the bolt carrier during automatic action cycling;
 - m. a barrel; and
 - n. a barrel chamber compatible with a belted cartridge, including a counterbore to interface with the belted portion of the .300WM.
26. On information and belief, the Petra the rifle system is designed to cope with high pressures created by the .300WM round.



Fig. 3—Foreground: Spent .300WM cartridge. Background:

Falkor Petra.

27. The Petra has approximately the following dimensions, among others:
 - a. The Petra's barrel chamber has a wall thickness of approximately 0.325 inches.
 - b. The Petra's bolt extractor groove has a radius of approximately 0.266 inches.
 - c. The Petra's bolt face has a diameter of approximately 0.536 inches.
 - d. The Petra's firing pin has a length of approximately 4.865 inches.
 - e. The Petra's lower receiver assembly has a length of approximately 9.96 inches.
28. The Petra's upper and lower receivers are configured to detachably engage.

29. Falkor was aware of Guardian's rights in the '410 Patent, as described above.

30. As a result of Falkor's willful infringement of the '410 Patent, Guardian is entitled to an award of compensatory and exemplary damages in an amount to be determined at trial.

COUNT I
(Infringement of the '410 Patent)

31. Guardian repeats and realleges each of the preceding paragraphs as though fully set forth herein.

32. Falkor has been and is infringing the '410 Patent, including at least claims 1, 3, 5, 6, 7, 8, and 13, by making, using, selling, or offering for sale in the United States, or importing into the United States, including within this judicial district, the Falkor Petra in violation of 35 U.S.C. § 271(a) through (c).

33. On information and belief, Falkor has been and is inducing infringement of the '410 Patent by actively and knowingly inducing others to sell, offer for sale, or import the Petra which embodies or uses the invention claimed in the '410 Patent. Falkor knows of Guardian's patent rights and, on information and belief, Falkor knows of or is willfully blind to its own infringing practice of the '410 Patent's technology and/or its enablement of the infringing practice of the '410 Patent's technology by others.

34. Falkor's infringement has been, and continues to be knowing, intentional, and willful.

35. Falkor's acts of infringement of the '410 Patent have caused and will continue to cause Guardian damages for which Guardian is entitled to compensation pursuant to 35 U.S.C. § 284.

36. Falkor's acts of infringement of the '410 Patent have caused and will continue to cause Guardian immediate and irreparable harm unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283. Guardian has no adequate remedy at law.

37. This case is exceptional and, therefore, Guardian is entitled to an award of attorneys' fees pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Guardian Defense, LLC requests judgment against Falkor SID, Inc., as follows:

A. Adjudging that Falkor has infringed and actively induced infringement of the '410 Patent, in violation of 35 U.S.C. § 271(a) through (c);

B. Granting an injunction permanently enjoining Falkor, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all of those in active concert and participation with any of the

foregoing persons or entities from infringing, contributing to the infringement of, or inducing infringement of the '410 Patent;

C. Ordering Falkor to account and pay damages adequate to compensate Guardian for Falkor's infringement of the '410 Patent, including pre-judgment and post-judgment interest and costs, pursuant to 35 U.S.C. § 284;

D. Ordering an accounting for any infringing sales not presented at trial and an award by the court of additional damages for any such infringing sales;

E. Ordering that the damages award be increased up to three times the actual amount assessed, pursuant to 35 U.S.C. § 284;

F. Awarding Guardian its reasonable attorney and expert witness fees;
and

G. Awarding such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury of all issues so triable.

Dated: June 17th 2020

Respectfully Submitted,

/s/ David C. Berkoff

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