

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

SWM INTERNATIONAL, LLC,

Plaintiff,

v.

DYNAENERGETICS EUROPE GMBH, and
DYNAENERGETICS US, INC,

Defendants.

Civil Action No. 6:21-cv-804

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff SWM International, LLC (“SWM,” “Plaintiff”) files this Complaint for patent infringement against Defendants DynaEnergetics Europe GmbH and DynaEnergetics US, Inc. (collectively, “DynaEnergetics” or “Defendants”). SWM alleges infringement of U.S. Patent No. 11,078,762 (the “’762 Patent”), and, in support thereof, alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 et seq.

PARTIES

2. Plaintiff SWM International, LLC is a Delaware limited liability company with its headquarters at 2225 West Alcock Street, Pampa, Texas 79065.

3. SWM is a provider of oil well perforating systems and related services, and is an innovator in the field of oil well perforating systems.

4. Defendant DynaEnergetics Europe GmbH (“DynaEnergetics Europe”) is a corporation organized under the laws of Germany, with its headquarters at Kaiserstrasse 3, 53840 Troisdorf, Germany.

5. Defendant 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. Upon information and belief, DynaEnergetics US has regular and established places of business throughout Texas and in this District. For example, DynaEnergetics US has a regular and established place of business at 3580 HCR 1145 Loop N., Blum, Texas 76627. For another example, upon information and belief, DynaEnergetics US has a regular and established place of business at 1700 SW Mustang

Dr, Andrews, TX 79714.

6. DynaEnergetics US can be served with process by serving its registered agent, National Registered Agents, Inc., at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 et seq., including 35 U.S.C. § 271. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over DynaEnergetics because, on information and belief, it actively and regularly conducts business within the State of Texas and the Western District of Texas (the “District”), including from its regular and established place of business within this District at 3580 HCR 1145 Loop N., Blum, Texas 76627. Moreover, DynaEnergetics, either directly or indirectly, has committed acts of infringement within the District giving rise to this action and/or has established minimum contacts with the District such that the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

9. Upon information and belief, DynaEnergetics has committed acts of infringement of the ’762 Patent within the District by making, using, selling, and/or offering for sale in, and/or importing into, the District products protected by the ’762 Patent.

10. On a video posted to YouTube by DynaEnergetics on February 25, 2021, DynaEnergetics stated that at least some of its products are made in Texas. Upon information and belief, at least some of these products are made in DynaEnergetics’ facility in this District and those same products are accused of infringement.

11. Upon information and belief, DynaEnergetics has also placed, and is continuing to place, infringing products into the stream of commerce via an established distribution channel

with the knowledge and/or understanding that they are sold in the State of Texas, including in this District.

12. Upon information and belief, DynaEnergetics conducts field trials of multiple products in this District, including the accused products. For example, DynaEnergetics asserts that it conducted a field trial of DS Gravity in Midland, Texas. *See* https://www.linkedin.com/posts/dynaenergetics_perforating-dynastage-innovation-activity-6758060811639369728-QY9Y. For another example, DynaEnergetics posted a series of pictures it asserts shows its DS Infinity product being loaded and set up in Midland, Texas. *See* https://www.linkedin.com/posts/dynaenergetics_dynaenergetics-westtexas-activity-6770734714555838464-G7oR.

13. On information and belief, DynaEnergetics has derived substantial revenues from its infringing acts in the District, including its manufacturing and/or sale of infringing products.

14. Additionally, DynaEnergetics is currently availing itself of this Court's jurisdiction in other still-pending patent cases that DynaEnergetics filed in this District, including Case Nos. 6:20-cv-01110-ADA, 6:20-cv-01201-ADA, 6:21-cv-00084-ADA, 6:21-cv-00085-ADA, 6:21-cv-00371-ADA, 6:21-cv-00349-ADA, and 6:21-cv-00225-ADA.

15. Additionally, on April 5, 2021, DynaEnergetics did not contest personal jurisdiction over DynaEnergetics US and DynaEnergetics Europe in the Western District of Texas in Case No. 6:21-cv-00104-ADA.

16. Venue is proper against DynaEnergetics in this District under 28 U.S.C. § 1400(b) because it has committed acts of infringement and has a regular and established place of business in the District. *See TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, 137 S. Ct. 1514, 1521 (2017); *In re Cray Inc.*, 871 F.3d 1355, 1362–63 (Fed. Cir. 2017). In particular, on information

and belief, DynaEnergetics maintains facilities at 3580 HCR 1145 Loop N., Blum, Texas 76627.

The below photograph from a press release about DynaEnergetics's Blum facilities depicts them:



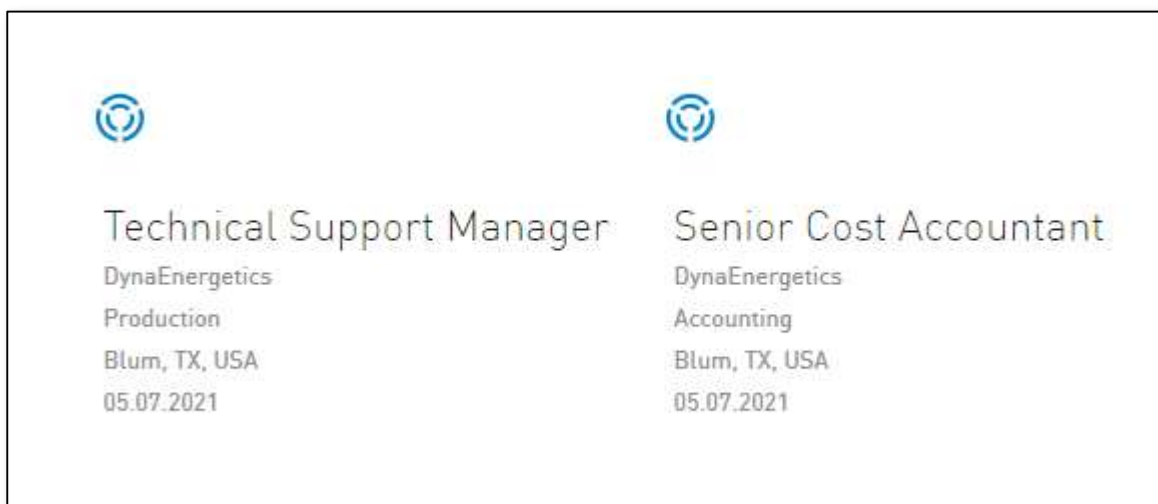
“DynaEnergetics Celebrates Grand Opening of DynaStage™ Manufacturing and Assembly Facilities in Blum, Texas,” *GlobeNewswire*, <https://www.globenewswire.com/news-release/2018/11/16/1652928/0/en/DynaEnergetics-Celebrates-Grand-Opening-of-DynaStage-Manufacturingand-Assembly-Facilities-in-Blum-Texas.html> (accessed July 16, 2021).

17. Upon information and belief, DynaEnergetics employs residents of this District at, *e.g.*, its Blum, Texas location. For example, as reported on Indeed, available at <https://www.indeed.com/cmp/Dynaenergetics/reviews> (accessed July 21, 2021), DynaEnergetics has current and former employees, including employees with titles or roles of “Middle Management,” “Quality Control Inspector,” “Gun Loader,” and “Production Worker,” at its Blum, Texas location.

18. Upon information and belief, DynaEnergetics has another facility in the District, at 4407 Farm to Market Rd 933, Whitney, Texas, 76692. Upon information and belief,

DynaEnergetics employs residents of this District at this location. For example, as reported on Indeed, available at <https://www.indeed.com/cmp/Dynaenergetics/reviews> (accessed July 21, 2021), DynaEnergetics has current and former employees, including employees with titles or roles of “Saw Operator,” “Machine Operator/Assembler,” and “CNC Machine Operator,” at its Whitney, Texas location.

19. Further, as reported on <https://www.dmcglobal.com/jobs#> (accessed July 16, 2021), on July 16, 2021, DynaEnergetics advertised multiple positions open in this District, including a Technical Support Manager and a Senior Cost Accountant (webpage excerpted below):



20. Additionally, upon information and belief, DynaEnergetics currently employs a Regional Sales Manager whose LinkedIn profile states is resident in Midland, Texas, and has multiple open positions in Midland, Texas. For example, Glassdoor lists, *e.g.*, positions for a “Technical Field Service Engineer” and “Technical Quality Engineer” at https://www.glassdoor.com/Job/midland-field-engineer-jobs-SRCH_IL0,7_IC1140362_KO8,22.htm?employerId=1057427 (accessed July 21, 2021).

21. Additionally, venue is proper in the District under 28 U.S.C. § 1391(b)(2)

because, on information and belief, a substantial part of DynaEnergetics's infringing activities giving rise to the claims herein occurred in the District and under 28 U.S.C. § 1391(c)(3) because DynaEnergetics Europe GmbH is not a United States resident.

22. Additionally, on April 5, 2021, DynaEnergetics admitted venue was proper in this District in Case No. 6:21-cv-00104-ADA.

FACTS

SWM:

23. SWM began as Specialty Welding in late 1979 as a small owner-operated welding shop, repairing Casing Guns for local wire line companies. The first employee was added in 1981.

24. In 1986, Specialty Welding purchased the company's first manual lathe, and added a machinist to begin repairing Subs and other Perforating Equipment. With the addition of the first lathe, Specialty Welding expanded the company's name to "Specialty Welding & Machine."

25. In 1996, SWM started manufacturing custom cross-over subs, and later extended its manufacturing to include perforating guns.

26. In 2005, SWM related to its present facility in Pampa, Texas, allowing SWM to expand, both by adding new equipment and increasing its workforce. SWM is consistently at the forefront of technology and quality, with high-quality products, including perforating gun systems, that can be customized to meet specific customer's needs.

27. Innovation and Intellectual Property protection are core values of SWM. In 2003, SWM's co-founder Sidney Mauldin filed for a patent on an improved well perforating device. The patent was issued on September 13, 2005 as U.S. Patent No. 6,941,871. SWM filed for and

was issued further patents, including the patent-in-suit, U.S. Patent No. 11,078,762 (the “Asserted Patent” or “the ’762 Patent.”).

Accused Product:

28. In or around November 2020, DynaEnergetics announced its DS Gravity™ downhole perforating gun system (“DS Gravity”). For example, DynaEnergetics asserted that it is “excited to announced [*sic*] the addition of... DS Gravity™ to our family of Factor-Assembled, Performance-Assured™ perforating systems.” This post is available at https://www.linkedin.com/posts/dynaenergetics_perforating-oilandgas-dynastage-activity-6734483901776969728-hEnJ, and was accessed July 19, 2021.

29. The DS Gravity is described by DynaEnergetics as a “Self-Orienting Plug and Perf System.” See “DS Gravity™ - DynaEnergetics,” available at <https://dynaenergetics.com/-/media/Project/DMC/DynaEnergetics/Resource-Files/DS-Gravity-and-DS-LoneStar-Flyer.pdf> (accessed, July 16, 2021), at 1. The DS Gravity is shown below:



30. DynaEnergetics asserted in a LinkedIn post on or around January 2021 that it conducted a field trial of DS Gravity in Midland, Texas, in this District. This post is available at https://www.linkedin.com/posts/dynaenergetics_perforating-dynastage-innovation-activity-6758060811639369728-QY9Y, and was accessed July 19, 2021.

31. DynaEnergetics explained the operation of DS Gravity in a YouTube video, posted on February 25, 2021, available at <https://www.youtube.com/watch?v=3pKSRXcVgu4>, and was accessed July 18, 2021.

32. DynaEnergetics lists the DS Gravity on the opening page of its website, <https://www.dynaenergetics.com> (accessed July 19, 2021):



**COUNT I:
INFRINGEMENT OF U.S. PATENT NO. 11,078,762**

33. SWM realleges and incorporates by reference every allegation made in the foregoing paragraphs of this Complaint.

34. On August 3, 2021, the United States Patent and Trademark Office (“PTO”) duly and legally issued United States Patent No. 11,078,762 B1, titled “Downhole Perforating Gun Tube and Components,” and naming Dawna Mauldin and Sidney Mauldin as its inventors. A

true and accurate copy of the '762 Patent is attached hereto and incorporated herein by reference as Exhibit A.

35. The '762 Patent claims patent-eligible subject matter and is valid and enforceable. Further, the claims of the '762 Patent are entitled to a presumption of validity.

36. SWM is the assignee of the '762 Patent by a written assignment effective as of June 11, 2021, and duly recorded with the PTO on June 11, 2021, and is the exclusive owner of all rights, title, and interest in and to the invention claimed in the '762 Patent and its underlying patent applications, including the right to sue for injunctive relief and the right to sue and recover for all past, present, and future damages for infringement of the '762 Patent.

37. At least as of the filing of this complaint, if not earlier, DynaEnergetics has been placed on notice of the '762 Patent.

38. In violation of 35 U.S.C. § 271(a), DynaEnergetics has infringed and is currently infringing one or more claims of the '762 Patent. Without SWM's authority, DynaEnergetics has made, used, offered to sell, sold, and/or imported into the United States the DS Gravity™ (the "Accused Product").

39. The Accused Product satisfies each element of and infringes at least claim 1 of the '762 Patent, which appears below:

1. A downhole perforating gun system, comprising:
 - an outer casing having a longitudinal center axis;
 - a gun body having a longitudinal center axis, wherein the gun body is concentrically disposed in the outer casing such that the longitudinal center axis of the gun body is aligned with the longitudinal center axis of the outer casing;
 - one or more explosive charges coupled to the gun body;
 - a collar;
 - a bearing assembly at least partially disposed in the collar such that the gun body is rotatable relative to the outer casing; and
 - one or more weights, wherein the gun body is rotatable by the weights via the bearing assembly based on gravity acting on the one or more weights.

40. Attached as Exhibit B hereto is a claim chart setting forth non-limiting and exemplary evidence showing how the Accused Product satisfies each element of claim 1 of the '762 Patent.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, SWM demands a trial by jury on all issues triable as such.

REQUEST FOR RELIEF

SWM requests that this Court find in its favor and against DynaEnergetics and that this Court grant SWM the following relief:

- (A) Adjudicating and declaring that DynaEnergetics has infringed and is infringing the '762 Patent;
- (B) Permanently enjoining DynaEnergetics, its officers, agents, employees, attorneys and all persons in active concert or participation with DynaEnergetics from further infringement of the '762 Patent or, to the extent not so enjoined, ordering DynaEnergetics to pay compulsory ongoing royalties for any continuing infringement of the '762 Patent;
- (C) Ordering that DynaEnergetics must account, and pay actual damages (but no less than a reasonable royalty), to SWM for DynaEnergetics's infringement of the '762 Patent;
- (D) Declaring that DynaEnergetics is willfully infringing the '762 Patent and ordering that DynaEnergetics pay up to treble damages to SWM as provided by 35 U.S.C. § 284;

- (E) Ordering that DynaEnergetics pay SWM's costs, expenses, and interest, including prejudgment interest, as provided for by 35 U.S.C. § 284;
- (F) Declaring that this is an exceptional case and awarding SWM its attorneys' fees and expenses as provided for by 35 U.S.C. § 285;
- (G) Granting SWM such other and further relief as the Court deems just and appropriate, or that SWM may be entitled to as a matter of law or equity.

Dated: August 3, 2021

Respectfully submitted,

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* Pro hac to be filed

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