

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS - FORT WORTH DIVISION**

<b>LABOR SAVING SYSTEMS LTD.</b>	§	
<b>d/b/a Magnepull,</b>	§	
<i>Plaintiff,</i>	§	
	§	<b>Case No. 4:21-cv-01389</b>
<b>v.</b>	§	
	§	
<b>HARBOR FREIGHT TOOLS USA, INC.,</b>	§	
<b>DOES 1-79,</b>	§	
<i>Defendants.</i>	§	

**PLAINTIFF’S ORIGINAL COMPLAINT**

Magnepull (or “Plaintiff”) files this Complaint for Patent Infringement against Defendants who are selling a rectangular hole saw which infringes on his patent. Magnepull seeks economic damages and injunctive relief from this Court to prevent Defendants’ ongoing sale of infringing product in both brick-and-mortar sales and online sources.

**I. PARTIES**

1. Plaintiff Labor Saving Systems Ltd., d/b/a Magnepull, (“Magnepull”) is located in Tarrant County, Texas with its principal place of business at 2620 W. Pioneer Parkway, Arlington, TX, 76013. Magnepull may be served through its counsel of record, the undersigned.

2. Defendant Harbor Freight Tools USA, Inc. (“HFT” or “Harbor Freight”) is a Delaware corporation registered to conduct business in Texas, with its principal place of business at 26677 Agoura Road Calabasas, California 91302. HFT sells tools and equipment in stores across the United States, including 47 in Texas, about 20 in the Northern District of Texas, and online. HFT may be served through its registered agent, Corporate Creations Network, Inc., located at 5444 Westheimer, #1000, Houston, Texas 77056.

3. Defendants Does 1-79 (“Doe Defendants”), identified in Exhibit 3, are individuals and unincorporated businesses, and generally understood to reside in foreign jurisdictions.

Defendants conduct illegal operations through interactive commercial webstores (“Infringing Webstores”) hosted on various e-commerce platforms, such as eBay and Amazon. Each Defendant offers its products for sale to consumers in the United States, including the State of Texas and has sold and continues to sell products (“Infringing Products”) that violate Plaintiff’s intellectual property rights to consumers within the United States, including the State of Texas and Northern District of Texas. Defendants have the capacity to be sued under Federal Rule of Civil Procedure 17(b).

4. Through their illegal operations on the Infringing Webstores, Defendants are directly and personally contributing to, inducing, and engaging in the sale of Infringing Products. On information and belief, Defendants knowingly and willfully manufacture, import, distribute, offer for sale, and sell Infringing Products.

5. Doe Defendants conceal their identities and the full scope of their infringing operations to deter Plaintiff from learning the Doe Defendants’ true identities, and the exact interworking of their illegal infringing operations. The true identities of many of these defendants are presently unknown. If the identities of the now-unknown Doe Defendants become known, Plaintiff intends to promptly amend this Complaint to identify them.

## **II. JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338(a), which provides jurisdiction based on federal questions and patent law, respectively.

7. This Court has personal jurisdiction over HFT in this action because HFT has committed acts within this District giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over HFT would not offend traditional notions of fair

play and substantial justice. HFT has committed acts of patent infringement and regularly and systematically conducted and solicited business in this District through stores in this District.

8. This Court also has personal jurisdiction over Does 1–79 because Plaintiff’s claims arise under federal law; Defendants are, on information and belief, not subject to jurisdiction in any state’s courts of general jurisdiction; and exercise of such jurisdiction is consistent with the United States Constitution and laws. Fed. R. Civ. P. 4(k)(2).<sup>1</sup> Personal jurisdiction is thus also proper pursuant to Fed. R. Civ. P. 4(k)(2) because each of the Defendants directs its activities at residents of the United States and the State of Texas and has wrongfully cause Plaintiff substantial injury in the State of Texas. *See* Exh. 2.

9. Each Defendant has, through e-commerce websites, pursued sales from Texas residents by offering shipping to Texas and, on information and belief, has sold Accused Products to residents of Texas. *See* Exhibit 2, 3, and 4. As such, personal jurisdiction is proper because each of the Defendants transact business in the State of Texas, is committing infringing acts in Texas, and has wrongfully caused Plaintiff substantial injury in Texas. *See* Exh. 2.

10. Additionally, Defendants have infringed Plaintiff’s Patent within and directed at or from this District. Defendants have purposefully and voluntarily placed the infringing products into the stream of commerce with the expectation that these infringing products will be used in this District. These infringing products have been and continue to be sold and used in this District.

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<sup>1</sup> “For a State to exercise jurisdiction consistent with due process, the defendant’s suit-related conduct must create a substantial connection with the forum State.” *Walden v. Fiore*, 571 U.S. 277, 284 (2014); *see also J. McIntyre Mach., Ltd. v. Nicastro*, 564 U.S. 873, 881 (2011) (“submission through contact with and activity directed at a sovereign may justify specific jurisdiction”). Specific jurisdiction only requires a defendant to have “minimum contacts” with the state, rather than the more rigorous “continuous and systematic” standard for general jurisdiction—the defendant need only purposefully direct its activities at residents of the forum, and the plaintiff’s alleged injury must arise out of or relate to the defendant’s contacts with the forum state. *Dontos v. Vendomation NZ Ltd.*, 582 F. App’x 338, 342 (5th Cir. 2014).

11. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendants are entities or individuals subject to personal jurisdiction in this District, and because a substantial part of the events giving rise to Plaintiff's claims occurred in this District.

12. In short, Doe Defendants and HFT have committed acts of infringement in this District.

13. Venue is also proper in this District pursuant to 28 U.S.C. § 1391(c)(3) because defendants not residing in the United States may be sued in any judicial district.

### III. BACKGROUND

#### *The Patent-in-Suit*

14. U.S. Patent Registration No. 9,737,941, entitled "Hole Saw", was issued on August 22, 2017, to inventor Mark Turner, who assigned it to Plaintiff. The subject of Plaintiff's patent is a rectangular saw blade specifically designed to make cut-out holes for retrofit outlet box installations. Plaintiff manufactures his products, marketed as the "Qbit", in Arlington, Texas.<sup>2</sup> Plaintiff sells his products directly from his website, and to distributors, such as Home Depot, who sell the product online and in stores throughout the world, including the Northern District of Texas. A genuine and authentic copy of the foregoing patent is attached as Exhibit 1.

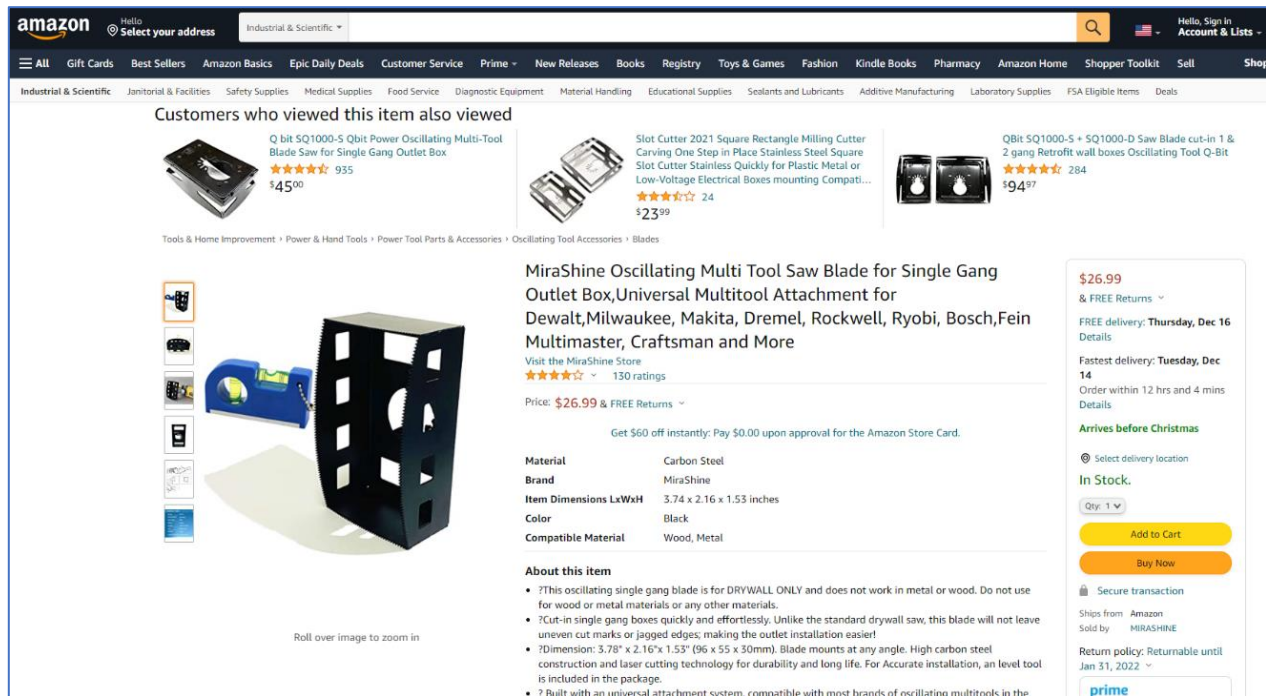
15. Plaintiff maintains strict quality control standards for all its products, which are wholly manufactured by Plaintiff. Plaintiff's products are sold in stores and online via its internet store, located at <https://www.magnepull.com/shop/qbit>, which features proprietary content, images, and designs exclusive to Plaintiff.

16. Plaintiff has sold thousands of units of its Products over the years to customers around the world, and Plaintiff has expended substantial time, money, and other resources developing, advertising, and otherwise promoting its Products. *See* Exh. 2.

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SQ1000-LV, and SQ1000-S.

17. Plaintiff has never assigned or licensed its Registration to any of the Defendants in this matter, and Plaintiff has never signed any licensing agreements with any third parties to manufacture, distribute, or otherwise use its Products. *See* Exh. 2.



***The Doe Defendants***

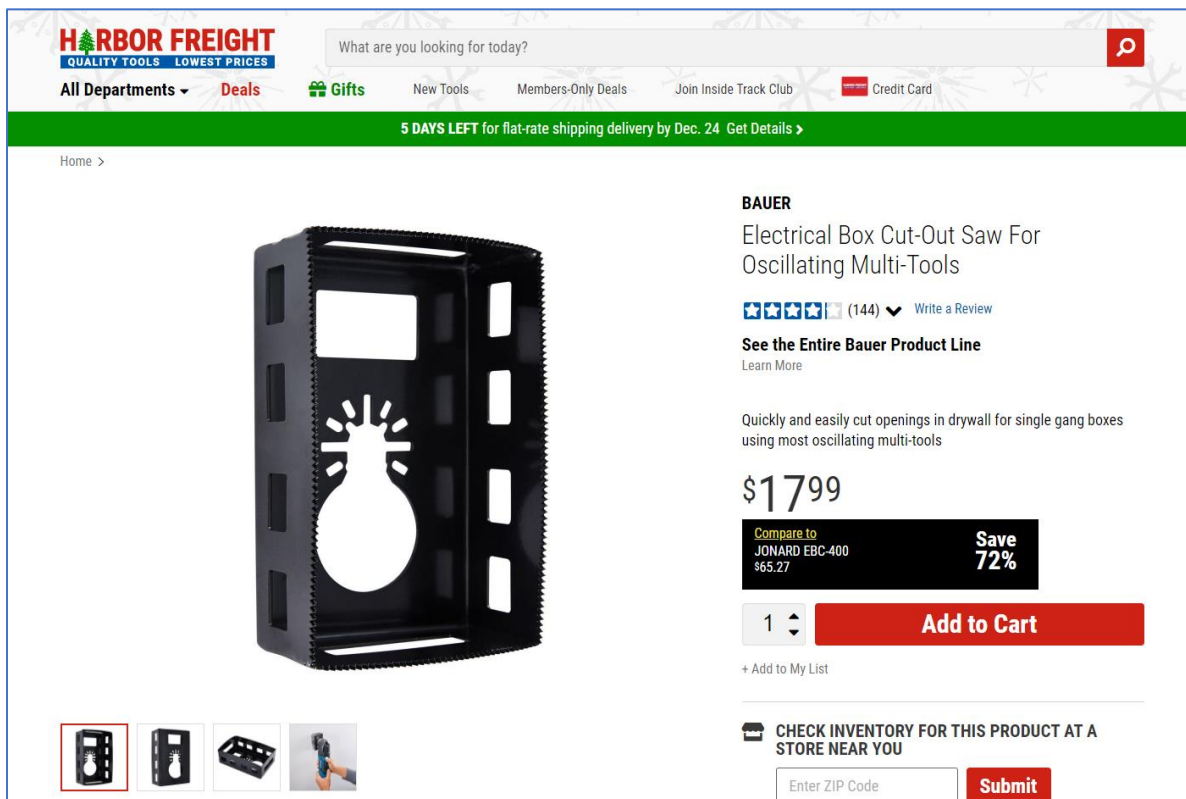
18. Doe Defendants, without authorization or license from Plaintiff, knowingly and willfully advertise, offer for sale, and sell the Accused Products, though the Internet and in retail stores. Fig. 1 shows an archetypical offer for sale of Accused Products sold by a Doe Defendant.

***Fig 1 – Archetype of Accused Products sold by Doe Defendants***

### *The Bauer Tools and Harbor Freight*

19. Bauer Tools (“Bauer”) is a tool brand produced by Harbor Freight (“HFT”) sold exclusively through its stores. HFT’s infringing products are being sold under the Bauer brand.

20. Figure 2 shows a screen shot of the HFT site, selling the Accused Devices.



*Fig 2 - Accused Products sold by Harbor Freight*

### **Defendants’ Infringing Actions**

21. Each Infringing Webstore and Defendant has sold and shipped Accused Products into the United States, including Texas. *See* Exh. 2, 3, and 4.

22. Defendants’ advertising and sale of Accused Products in violation of Plaintiff’s intellectual property rights are irreparably damaging Plaintiff. *See* Exh. 2, 3, and 4.

23. Defendants have had full knowledge of Plaintiff’s ownership of the Products, including Plaintiff’s exclusive right to use and license such intellectual property. *See* Exh. 2, 3, and 4.

24. Defendants will continue to register or acquire listings for the purpose of selling the Accused Products and further products that will infringe on Plaintiff’s Products unless preliminarily and permanently enjoined. Plaintiff has no adequate remedy at law.

**IV. CAUSE OF ACTION: PATENT INFRINGEMENT  
(U.S. Patent No. 9,737,941)**

25. Defendants have directly infringed and are currently directly infringing the ’941 patent by making, using, selling, offering for sale, and importing into the United States, without authority, products and equipment that embody one or more claims of the ’941 patent.

26. As just one non-limiting example, claim 1 of the ’941 patent in connection with infringing products is compared to the Accused Products, such as seen above in Figures 1 and 2.

Claim 1 elements	Description of Defendant’s Products
A hole saw, comprising: a base member configured to secure the hole saw to a drive device; and first and second pairs of blade members extending orthogonally from the base member,	Defendants’ products are hole saws comprised of a base member configured to <i>secure</i> the hole saw to a drive device with two pairs of blade members extending orthogonally from the base member.
the blade members of the first pair disposed parallel to each other, the blade members of the second pair disposed parallel to each other, the first pair disposed orthogonally to the second pair, the base member and the first and second pairs forming an open-sided box-shaped hole saw, each of the blade members are attached to the base member in a fixed position relative to the base member, each of the blade members having cutting teeth defining a cutting direction, each of the blade members having oppositely extending, freestanding distal ends, each blade member having a reduced width in the cutting direction located between the cutting teeth and the base member.	Defendants’ products first pair of blade members are disposed parallel to each other while the blade members of the second pair are disposed parallel to each other, with the first pair disposed orthogonally to the second pair, the base member, and the first and second pairs forming an open-sided box-shaped hole saw, all the blade members attached to a base, with one set of blades reduced in width, and the blade members defining cutting directions.



27. Plaintiff's '941 Patent has been in full force and effect since its issuance. Plaintiff owns the entire right, title, and interest in and to the Patent, including the exclusive right to seek damages for past, current, and future infringement thereof, through its assignment from its inventor, Mark Turner.<sup>3</sup>

28. Through Defendants' infringing conduct, including Defendants' willful reproduction, display, and distributions of the Accused Products, Defendants have infringed and are continuing to directly infringe Plaintiff's exclusive rights in the Products.

29. Defendants' infringing conduct was and continues to be willful and with full knowledge of Plaintiff's rights in the Products and has enabled Defendants to illegally obtain profit.

30. Plaintiff has attempted to notify the Defendants of their infringing conduct; such evidence is shown in Exhibit 6.

31. As a direct and proximate result of Defendants' infringing conduct, Plaintiff has been harmed and is entitled to damages, including:

- a. Statutory damages against Defendants for their willful infringement by making, using, and offering the Accused Products that infringe the Patent. 35 U.S.C. §§ 271(a), 284.
- b. Enhanced damages under the Patent Act for Defendants' intentional infringement. *See Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 579 U.S. 93 (2016); 35 U.S.C. § 284.

32. Plaintiff is entitled to reasonable attorney fees. *See* 35 U.S.C. §§ 271(4) 285.

33. Defendants' intentional infringing conduct has and will continue to cause substantial and irreparable injury for which there is no adequate remedy at law. Unless this Court enjoins Defendants' infringing conduct, Defendants will continue to suffer these harms, including irreparable harm and injury to its goodwill, reputation, and sales. *See* Exh. 2, 3, and 4. Plaintiff is entitled to permanent injunctive relief restraining Defendants' ongoing infringing conduct.

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<sup>3</sup> See <https://legacy-assignments.uspto.gov/assignments/assignment-pat-58445-895.pdf>.



**V. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- A. That each Defendants have infringed and continue to infringe Plaintiff's Patent.
- B. A preliminary and permanent injunction, in accordance with 35 U.S.C. § 283, against Defendant, its affiliates, employees, agents, officers, directors, attorneys, successors, assigns, and all those acting on behalf of or in concert with them, enjoining them from:
  - i. infringing the '941 patent and making, using, selling, advertising, displaying, distributing, manufacturing, delivering, shipping, or offering for sale within the United States, or importing into the United States, any products that infringe the Asserted Patent, or acting in any other way that infringes the '941 patent;
  - ii. moving, relocating, or otherwise disposing of any funds cu located in Defendants' online accounts, including, without limitation, from AliExpress, Amazon, DHgate, eBay, Walmart, Wish, Alipay, PayPal, Payoneer, WorldFirst, and Western Union, or any others the Court finds;
  - iii. removing, destroying, or otherwise disposing of computer files, electronic files, business records, or documents relating to any of Defendants' webstores, websites, assets, operations, or relating in any way to the manufacture, acquisition, purchase, distribution or sale of Accused Products; and.
- C. That Defendants are ordered to, within ten days after service of judgment with notice of entry thereof upon them, file with the Court and serve on Plaintiff a written report under oath setting forth in detail the manner in which Defendants have complied with any and all injunctive relief ordered by this Court;
- D. Lost profit damages resulting from Defendants' infringement of Plaintiff's Patent;

- E. An award of damages o compensate Plaintiff for Defendants’ infringement, with interest and costs, under 35 U.S.C. § 284;
- F. That Defendants pay pre-judgment and post-judgment interest on the damages assessed;
- G. A judgment holding infringement of the Asserted Patents to be willful, and a trebling of damages pursuant to 35 U.S.C. § 284;
- H. That this is an exceptional case under 35 U.S.C. § 285 and that Defendants pay Plaintiff’s attorney’s fees in this action; and
- I. That this Court enter an order pursuant to Fed. R. Civ. P. 65(d)(2)(C) that those in privity with Defendants and those with notice of the injunction, including ecommerce platform providers, such as AliExpress, Amazon, DHgate, eBay, Walmart, Wish, etc., and payment processors, such as Alipay, PayPal, Payoneer, WorldFirst, Western Union, or other bank accounts or payment processors used by Defendants (“Third Party Provider”) shall within three business days of receipt of the corresponding order:
  - i. Take all necessary steps to prevent any Defendant from accessing or withdrawing funds from accounts through which Defendants, in the past, currently, or in the future, have or are selling the Accused Products, including, but not limited to, any accounts associated with Defendants listed on the attached Exhibit 1; and
  - ii. Take all steps to prevent any Defendant from accessing or withdrawing funds from accounts linked to Defendants, their email addresses, or their Infringing Webstores.
- J. That this Court grant Plaintiff such other relief as just and proper.

Respectfully submitted,

/s/Warren V. Norred

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*Attorney for Plaintiff*

Exhibits:

- 1 – U.S. Patent 9,737,941
- 2 – Declaration of Mark Turner
- 3 – Defendant Data Available to Plaintiff
- 4 – Evidence of Defendant's Infringement
- 5 – Declaration of Warren Norred
- 6 – Attempts to Contact Infringers