

John A. Masterson, #5-2386
Hampton K. O'Neill, #5-2876
WELBORN SULLIVAN MECK & TOOLEY, P.C.
Attorney for Schmeisser GmbH
159 North Wolcott, Ste. 220
Casper, WY 82601
Main: (307) 234-6907
Email: jmasterson@wsmtlaw.com
Email: honeill@wsmtlaw.com

J. Blake Hike, Pro Hac Vice (IN Bar #28601-02)
Jon A. Bragalone, Pro Hac Vice (IN Bar #3914-02)
CARSON LLP
301 W. Jefferson Blvd., Ste. 200
Fort Wayne, IN 46802
Main: (260) 423-9411
Email: hike@carsonllp.com
Email: bragalone@carsonllp.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

SCHMEISSER GMBH)	
)	
Plaintiff,)	
)	CIVIL ACTION NO. 0:21-cv-00024
vs.)	
)	
AC-UNITY D.O.O and)	
RTG PARTS, LLC)	
)	
Defendants.)	

SECOND AMENDED COMPLAINT

Plaintiff, Schmeisser GmbH, for its Second Amended Complaint against Defendants, AC-Unity d.o.o and RTG Parts, LLC, alleges and states as follows:

Parties

1. Plaintiff, Schmeisser GmbH (“Schmeisser”), is a German corporation with its principal place of business in Krefeld, Germany.

2. Defendant, AC-Unity d.o.o (“AC-Unity”), is a Bosnian company with its principal place of business at Industrijska zona Vitkovići bb, 73000 Goražde, Bosnia.

3. Defendant, RTG Parts, LLC (“RTG”), is a Wyoming limited liability company with its principal place of business at 931 Frank Street, Sheridan, WY 82801.

4. Upon information and belief, RTG is a single-member limited liability company—RTG’s sole member being Wyoming citizen Robert L. Johnson.

Jurisdiction and Venue

5. This is an action arising under the patent laws of the United States, 35 U.S.C. sections 101 *et seq.*, seeking damages and injunctive relief. This Court has subject matter jurisdiction over this action under 35 U.S.C. § 271(a) and (b) and 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over AC-Unity because AC-Unity induced and/or induces acts of infringement here, and the Court has determined AC-Unity and RTG created an established distribution channel and AC-Unity shipped its products to Wyoming and, thus, has the requisite minimum contacts for personal jurisdiction here. (ECF No. 88).

7. This Court has personal jurisdiction over RTG because RTG resides here, RTG’s sole member resides here, and RTG committed acts of infringement here.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because RTG resides here, has committed acts of infringement here, and has a regular and established place of business here and because AC-Unity is a foreign company that may be sued in any district.

Background

9. On December 15, 2020, the United States Patent and Trademark Office duly and legally issued United States Patent No. 10,866,045 (“the ‘045 Patent”), entitled “Housing for a Cartridge Magazine for a Firearm and Cartridge Magazine for a Firearm.” A copy of the ‘045 Patent is attached as **Exhibit 1** and incorporated by reference. The claims of the ‘045 Patent generally cover a housing for a cartridge magazine for a firearm, and more particularly a housing for a stack-type cartridge magazine for a firearm.

10. Schmeisser is the owner by assignment of the ‘045 Patent and holds all rights to sue for past, present, and future infringement of the ‘045 Patent.

11. Schmeisser is an innovator and market leader of weapon system components, including cartridge magazines for firearms.

12. Among the products Schmeisser develops, manufacturers, markets, and sells are products covered by the ‘045 Patent, including the AR15/M4 Quad Stack 60 Round Magazine and AK47 Quad Stack 60 Round Magazine 7.62 x 39 (“Patented Products”).

13. Schmeisser provided written notification to AC-Unity on or about January 21, 2019 that Schmeisser had pending DE and PCT patent applications covering a quad stack magazine.

14. Pursuant to 35 U.S.C. § 287, when the ‘045 Patent issued, Schmeisser provided written notification of the ‘045 Patent’s issuance to AC-Unity and RTG on December 23, 2020.

15. In Schmeisser's December 23, 2020 letter, Schmeisser attached the '045 Patent; informed AC-Unity and RTG the '045 Patent is directed to a quad stack 60 round magazine which can be configured as either an AR style or AK style magazine; provided screenshots of webpages (including a webpage from RTG's website) showing online advertising and offering for sale AC-Unity's 60 round magazines; and demanded that AC-Unity and RTG immediately stop any activities in the United States which would infringe upon the subject matter of the '045 Patent.

16. AC-Unity responded to Schmeisser's December 23, 2020 letter. Although Schmeisser attached the '045 Patent to the December 23, 2020 letter, AC-Unity's response requested "all original document starting with document which confirms that your patent right has been granted in countries of your interest," making it clear AC-Unity did not fully review Schmeisser's December 23, 2020 letter, the '045 Patent, and Schmeisser's position that AC-Unity was advertising and offering for sale a product that infringed on the '045 Patent.

17. RTG did not respond to Schmeisser's December 23, 2020 letter.

18. Despite Schmeisser providing written notification to AC-Unity and RTG of the '045 Patent and AC-Unity's and RTG's infringing activities, RTG did not stop its infringing activities until after this Court entered its Order Granting Preliminary Injunction Against RTG Parts, LLC (ECF No. 40)("Preliminary Injunction Order"), and AC-Unity has not stopped its infringing activities.

Defendants' Infringing Activities

19. AC-Unity makes, uses, offers to sell, and/or sells, among other products, an AC-AK47 60 Round Quad Stack Magazine 7.62 x 39 ("Accused Product") and an AR-15 M4 223 Remington/5.56 NATO 60 Round Quad Stack Magazine ("AR Accused Product").

20. AC-Unity, directly or indirectly, sells the Accused Product and the AR Accused Product to companies located in the United States.

21. In transactions with foreign purchasers (like companies located in the United States), AC-Unity will arrange for shipment to the foreign purchaser's desired destination and conduct export licensing from Bosnia. (ECF No. 85-1, ¶ 11).

22. For example, for AC-Unity's sale of the Accused Product to RTG, AC-Unity coordinated shipping of the Accused Product through a third-party shipping company to RTG. (ECF No. 85-1, ¶ 12).

23. RTG and other distributors then sell the Accused Product and/or the AR Accused Product to customers in the United States.

24. Until the Court entered the Preliminary Injunction Order, AC-Unity previously sold the Accused Product to at least RTG.

25. AC-Unity knew or should have known the Accused Product AC-Unity was manufacturing infringed on the claims of the '045 Patent.

26. AC-Unity knew or should have known the Accused Product AC-Unity sold to RTG was headed to the United States for resale in the United States.

27. Further, AC-Unity recently began manufacturing the Accused Product and the AR Accused Product for resale in the United States by another United States company.

28. AC-Unity knew or should have known the AR Accused Product AC-Unity was manufacturing infringed on the claims of the '045 Patent.

29. Until after the Court entered the Preliminary Injunction Order, RTG imported, used, sold, and offered to sell the Accused Product in the United States.

30. The Accused Product is made, used, sold, offered for sale, and imported in direct competition with at least one of the Patented Products, namely Schmeisser's AK47 Quad Stack 60 Round Magazine 7.62 x 39.

31. The resale of the Accused Product within the United States directly infringes on the claims of the '045 Patent.

32. The Accused Product is a housing for a cartridge magazine for a firearm.

33. The Accused Product is meant for use and operation within an AK-style rifle.

34. The Accused Product's housing extends along an X-axis, a Y-axis, and a Z-axis.

35. The Accused Product contains a front wall, a rear wall, a first side wall, and a second side wall.

36. The inside surfaces of the Accused Product's front wall, rear wall, first side wall, and second side wall form an interior space.

37. The interior space of the Accused Product's housing contains a first region and a second region, with a transitional region between the first region and second region which connects the first region and the second region with one another.

38. The Accused Product's housing's first region corresponds to the quad stack region where the housing holds four columns of cartridges.¹

39. The Accused Product's housing's second region corresponds to the double stack region, where the housing holds two columns of cartridges.

¹ A cartridge is a single round of ammunition which is loaded together with other cartridges within a magazine for use within a rifle.

40. The Accused Product's housing's transitional region corresponds to the region between the first region and second region where the cartridges transition from four columns to two columns.

41. The interior space of the Accused Product's housing is limited by the inside surfaces of a front wall, a rear wall, a first side wall, and a second side wall.

42. The inside surface of the Accused Product's housing's front wall extends in the direction of the Z-axis in at least one of the first, second, and/or transitional regions along a first circular path.

43. The first circular path corresponds to the radius of curvature of the front wall of the magazine for insertion into an AK style rifle.

44. The inside surface of the Accused Product's housing's rear wall extends in at least one of the first, second, and/or transitional regions in the direction of the Z-axis along a second circular path.

45. The second circular path corresponds to the radius of curvature of the rear wall of the magazine for insertion into an AK style rifle.

46. The inside surfaces of the Accused Product's housing's front wall and rear wall in at least one of the first, second, and/or transitional regions are located at a distance from one another.

47. The Accused Product's housing has a bottom side, a top side, magazine lips formed on the top side, and a bottom side designed to be at least partially open.

48. The Accused Product's housing's first region is configured to accommodate four stacks of cartridges arranged directly adjoining one another and being offset in the Z-direction relative to one another.

49. As shown in the attached **Exhibit 2**, which is incorporated by reference, RTG advertised the Accused Product as a “Quad Stack” magazine.

50. The Accused Product’s housing’s second region is configured to accommodate two stacks of cartridges arranged directly adjoining one another and being offset in the Z-direction relative to one another.

51. The Accused Product’s second region must inherently accommodate two stacks of cartridges in order to be able to fit within the conventional magazine receiving slot of an AK-47 rifle.

52. The inside surface of the Accused Product’s housing’s front wall has a first protrusion which protrudes in the direction of the X-axis into the interior space of the housing and extends along the Z-axis, starting in the transitional region and extending the full length of the magazine, through the first and second regions to the magazine’s distal ends.

53. The inside surface of the Accused Product’s housing’s rear wall has a second protrusion which protrudes in the direction of the X-axis into the interior space of the housing and extends along the Z-axis, starting in the first region, extending the entire length of the first region, and terminating in the transitional region, near the second region.

54. The inside surface of the Accused Product’s housing’s first side wall in the transitional region is along a first curved path.

55. The inside surface of the Accused Product’s housing’s second side wall in the transitional region is along a second curved path.

56. The first and second curved paths transition the cartridges from a quad stack region to a double stack region.

57. The curved paths each have a respective turning point and extend in the direction of a central plane from the Accused's Product's housing's bottom side to the Accused Product's housing's top side before the respective turning point.

58. The curved paths, after their respective turning point, respectively fit against a first and a second parallel relative to the central plane.

59. The first and second curved paths begin to depart from the Accused Product's housing's side walls in the first region at staggered locations along the Z-axis, forming an offset relative to one another.

60. The inside surfaces of the Accused Product's housing are at a greater distance from each other in the first region, as compared to the distance between the inside surfaces in the second region.

61. The distance between the inside surfaces in the first region is approximately 43mm ("AK Second Distance").

62. The distance between the inside surfaces in the second region is approximately 22mm ("AK Third Distance").

63. The offset formed between the first region and second region by the first and second curved paths is approximately 6mm.

64. The offset formed between the first region and second region by the first and second curved paths is, thus, approximately 28% of the difference between the AK Second Distance and AK Third Distance.

65. The Accused Product's housing is a single component.

66. The Accused Product's housing is formed from plastic.

67. The Accused Product's housing consists of a synthetic material.

68. The Accused Product includes a bottom cover, which is removable from the bottom side by pressing a spring beam latch and which at least substantially closes off the at least partially open bottom side of the Accused Product's housing.

69. The Accused Product has two feeders.

70. The Accused Product's first feeder is larger and traverses longitudinally within the Accused Product's quad stack first region.

71. The Accused Product's second feeder remains within the first feeder as a result of a lighter spring force on the spring between the two feeders, until the first feeder reaches the transitional area, where the second feeder un-nests from the first feeder and continues to traverse through the double stack second region.

72. The Accused Product's second feeder is moveable.

73. The Accused Product's second feeder can nest partially or fully within the first feeder.

74. The Accused Product has a first spring located between the first feeder and the housing's bottom cover.

75. The Accused Product has a second spring located between the first feeder and the second feeder.

76. A Claim Chart detailing the '045 Patent's claimed elements with reference numbers and showing the location in the Accused Product at which each claimed element of the '045 Patent is present in the Accused Product is attached as **Exhibit 3** and incorporated by reference.

77. Due to delays associated with serving a foreign entity, Schmeisser did not achieve service of the original Complaint on AC-Unity until August 27, 2021.

78. On October 27, 2021, RTG filed a Motion to Stay the Case (ECF No. 64), pending the Patent Trial and Appeal Board’s (“PTAB”) administrative review of the ‘045 Patent.

79. RTG’s Motion was based on its October 21, 2021 Petition for *Inter Partes* Review of all the claims asserted in this patent infringement lawsuit and RTG’s argument that, if the challenged claims of the ‘045 Patent survived the *inter partes* review, the issues in this case will be simplified.

80. The Court granted RTG’s Motion to Stay the Case in the Court’s November 22, 2021 Order Granting Defendant’s Motion to Stay the Case (ECF No. 72).

81. The Court’s Order stayed the case and all its deadlines until the PTAB either rejected RTG’s application for *inter partes* review or until *inter partes* review was complete.

82. Schmeisser filed its Preliminary Response to RTG’s Petition for *Inter Partes* Review on January 28, 2021.

83. On April 27, 2022, the PTAB issued the attached Decision Denying Institution of *Inter Partes* Review. (**Exhibit 4**).

84. The PTAB rejected RTG’s application for *inter partes* review and denied institution of *inter partes* review on the merits, finding RTG failed to establish a reasonable likelihood that RTG would prevail with respect to even one challenged claim of the ‘045 Patent.

85. While this litigation was stayed during the *inter partes* review proceeding, another United States company began using, offering for sale, selling, and/or importing the Accused Product and the AR Accused Product.

86. More specifically, Delmic Enterprises LLC d/b/a Target Sports USA—an online ammunition store located in Connecticut—began offering the Accused Product for sale in the first half of 2022. (**Exhibit 5**).

87. In addition, Target Sports USA's website offered the AR Accused Product for sale. **(Exhibit 5)**.

88. While the Accused Product and AR Accused Product were listed on Target Sports USA's website, Schmeisser's United States patent counsel purchased four AR Accused Product from Target Sports USA's website on or about June 20, 2022 **(Exhibit 6)** and received the magazines in the United States in just three days, on June 23, 2022.

89. Schmeisser's United States patent counsel purchased six additional AR Accused Product from Target Sports USA's website on or around June 30, 2022. **(Exhibit 6)**.

90. Both the Accused Product and the AR Accused Product were in stock on Target Sports USA's website until on or around July 23, 2022 **(Exhibit 5)** when Target Sports USA removed the infringing products from its website in response to a cease and desist letter.

91. Based on information from Target Sports USA, the infringing Accused Product and AR Accused Product remain in Target Sports USA's custody.

92. Based on information from Target Sports USA, AC-Unity manufactured the Accused Product and AR Accused Product.

93. IZOP-K d.o.o., a Slovenian company, then imported the magazines to Target Sports USA.

94. It is unclear at this time what—if any—relationship AC-Unity has with IZOP-K d.o.o. and whether IZOP-K d.o.o. is a third-party shipping company through which AC-Unity is coordinating shipping the Accused Product and AR Accused Product to Target Sports in the United States.

95. Schmeisser received information on October 4, 2022 indicating IZOP-K d.o.o. is now advertising the Accused Product and AR Accused Product as available “in stock in the USA.” (Exhibit 7).

96. As stated above, AC-Unity knew or should have known the Accused Product and the AR Accused Product it was manufacturing for Target Sports infringed on the ‘045 Patent.

97. AC-Unity knew or should have known it was manufacturing the Accused Product and the AR Accused Product for Target Sports resale in the United States.

98. As shown in the below photo of the AR Accused Product, Target Sports’ name and logo are molded into the side of the AR Accused Product which was manufactured by AC-Unity and sold by Target Sports.



99. This is different from the version of the AR Accused Product sold by AC-Unity outside the United States.

100. As shown in the below screenshot from AC-Unity’s website, AC-Unity molds its own name and/or logo into the side of the version of the AR Accused Product sold outside the United States.



101. Further, Target Sports sells other AC-Unity magazines on its website with the Target Sports' logo molded into the side of the magazines.

102. Generally, a logo is molded into the side of magazines—like the Accused Product and AR Accused Product—during the molding process by changing the inlay placed into the mold and cannot be done as a second step (i.e. after the product is manufactured).

103. AC-Unity, thus, knew or should have known the Accused Product and the AR Accused Product that AC-Unity was manufacturing for Target Sports was headed for the United States.

104. The AR Accused Product is made, used, sold, offered for sale, and imported in direct competition with at least one of the Patented Products, namely Schmeisser's AR15/M4 Quad Stack 60 Round Magazine.

105. The resale of the AR Accused Product within the United States directly infringes on the claims of the '045 Patent.

106. The AR Accused Product is a housing for a cartridge magazine for a firearm.

107. The AR Accused Product is meant for use and operation with an AR-style rifle.

108. The AR Accused Product's housing extends along an X-axis, a Y-axis, and a Z-axis.

109. The AR Accused Product contains a front wall, a rear wall, a first side wall, and a second side wall.

110. The inside surfaces of the AR Accused Product's front wall, rear wall, first side wall, and second side wall form an interior space.

111. The interior space of the AR Accused Product's housing contains a first region and a second region, with a transitional region between the first region and second region which connects the first region and the second region with one another.

112. The AR Accused Product's housing's first region corresponds to the quad stack region where the housing holds four columns of cartridges.

113. The AR Accused Product's housing's second region corresponds to the double stack region, where the housing holds two columns of cartridges.

114. The AR Accused Product's housing's transitional region corresponds to the region between the first region and second region where the cartridges transition from four columns to two columns.

115. The interior space of the AR Accused Product's housing is limited by the inside surfaces of a front wall, a rear wall, a first side wall, and a second side wall.

116. The inside surface of the AR Accused Product's housing's front wall extends in the direction of the Z-axis in at least one of the first, second, and/or transitional regions along a first circular path.

117. The first circular path corresponds to the radius of curvature of the front wall of the magazine for insertion into an AR style rifle.

118. The inside surface of the AR Accused Product's housing's rear wall extends in at least one of the first, second, and/or transitional regions in the direction of the Z-axis along a second circular path.

119. The second circular path corresponds to the radius of curvature of the rear wall of the magazine for insertion into an AR style rifle.

120. The inside surfaces of the AR Accused Product's housing's front wall and rear wall in at least one of the first, second, and/or transitional regions are located at a distance from one another.

121. The AR Accused Product's housing has a bottom side, a top side, magazine lips formed on the top side, and a bottom side designed to be at least partially open.

122. The AR Accused Product's housing's first region is configured to accommodate four stacks of cartridges arranged directly adjoining one another and being offset in the Z-direction relative to one another.

123. The AR Accused Product's housing's second region is configured to accommodate two stacks of cartridges arranged directly adjoining one another and being offset in the Z-direction relative to one another.

124. The AR Accused Product's second region must inherently accommodate two stacks of cartridges in order to be able to fit within the conventional magazine receiving slot of an AR-style rifle.

125. The inside surface of the AR Accused Product's housing's front wall has a first protrusion which protrudes in the direction of the X-axis into the interior space of the housing and extends along the Z-axis, starting in the transitional region and extending the full length of the magazine, through the first and second regions to the magazine's distal ends.

126. The inside surface of the AR Accused Product's housing's rear wall has a second protrusion which protrudes in the direction of the X-axis into the interior space of the housing and extends along the Z-axis, starting in the first region, extending the entire length of the first region, and terminating in the transitional region, near the second region.

127. The inside surface of the AR Accused Product's housing's first side wall in the transitional region is along a first curved path.

128. The inside surface of the AR Accused Product's housing's second side wall in the transitional region is along a second curved path.

129. The first and second curved paths transition the cartridges from a quad stack region to a double stack region.

130. The curved paths each have a respective turning point and extend in the direction of a central plane from the AR Accused's Product's housing's bottom side to the AR Accused Product's housing's top side before the respective turning point.

131. The curved paths, after their respective turning point, respectively fit against a first and a second parallel relative to the central plane.

132. The curved paths are symmetrically identical.

133. The first and second curved paths begin to depart from the AR Accused Product's housing's side walls in the first region at staggered locations along the Z-axis, forming an offset relative to one another.

134. The inside surfaces of the AR Accused Product's housing are at a greater distance from each other in the first region, as compared to the distance between the inside surfaces in the second region.

135. The distance between the inside surfaces in the first region is approximately 38 mm (“AR Second Distance”).

136. The distance between the inside surfaces in the second region is approximately 17.5 mm (“AR Third Distance”).

137. The offset formed between the first region and second region by the first and second curved paths is approximately 4 mm.

138. The offset formed between the first region and second region by the first and second curved paths is, thus, approximately 19.5% of the difference between the AR Second Distance and AR Third Distance.

139. The AR Accused Product’s housing is a single component.

140. The AR Accused Product’s housing is formed from plastic.

141. The AR Accused Product’s housing consists of a synthetic material.

142. The AR Accused Product includes a bottom cover, which is removable from the bottom side by pressing a spring beam latch and which at least substantially closes off the at least partially open bottom side of the AR Accused Product’s housing.

143. The AR Accused Product has two feeders.

144. The AR Accused Product’s first feeder is larger and traverses longitudinally within the AR Accused Product’s quad stack first region.

145. The AR Accused Product’s second feeder remains within the first feeder as a result of a lighter spring force on the spring between the two feeders, until the first feeder reaches the transitional area, where the second feeder un-nests from the first feeder and continues to traverse through the double stack second region.

146. The AR Accused Product’s second feeder is moveable.

147. The AR Accused Product's second feeder can nest partially or fully within the first feeder.

148. The AR Accused Product has a first spring located between the first feeder and the housing's bottom cover.

149. The AR Accused Product has a second spring located between the first feeder and the second feeder.

150. A Claim Chart detailing the '045 Patent's claimed elements with reference numbers and showing the location in the AR Accused Product at which each claimed element of the '045 Patent is present in the AR Accused Product is attached as **Exhibit 8** and incorporated by reference.

Count I: Infringement of U.S. Patent No. 10,866,045 by the Accused Product

151. Schmeisser incorporates by reference paragraphs 1 through 150 of this Second Amended Complaint as if more fully set forth herein.

152. Any make, use, offer for sale, and/or sale of the Accused Product in the United States or import of the Accused Product into the United States, infringes claims 1, 11, 12, 13-15, and 17-19 of the '045 Patent literally and/or under the doctrine of equivalents.

153. RTG has used, offered to sell, sold, and/or imported AC-Unity's infringing AC-AK47 60 Round Quad Stack Magazine 7.62 x 39 within this judicial district and throughout the United States.

154. RTG continued to use, offer to sell, sell, and/or import AC-Unity's infringing AC-AK47 60 Round Quad Stack Magazine 7.62 x 39 until after the Court entered the Preliminary Injunction Order, despite Schmeisser notifying AC-Unity and RTG the '045 Patent issued; providing AC-Unity and RTG a copy of the '045 Patent; and notifying AC-Unity and RTG that AC-Unity's and RTG's actions infringed upon the '045 Patent.

155. RTG knew about the '045 Patent, and its continued actions in using, offering to sell, selling, and/or importing the Accused Product despite the '045 Patent's issuance until after Schmeisser filed this lawsuit and the Court entered the Preliminary Injunction Order was intentional, willful, wanton, malicious, and done in bad faith, making this an exceptional case under 35 U.S.C. §§ 284 and 285.

156. Schmeisser was damaged and irreparably harmed by RTG's infringement of the '045 Patent and is thus entitled to recover damages adequate to compensate it for the infringement complained of in this Second Amended Complaint, but in no event less than a reasonable royalty.

157. Further, Target Sports resale of the Accused Product within the United States and Target Sports and/or IZOP-K's import of the Accused Product into the United States directly infringes on the claims of the '045 Patent.

158. AC-Unity knew or should have known the Accused Product AC-Unity manufactured for resale by RTG and Target Sports infringed on the '045 Patent and knew or should have known the Accused Product sold to or manufactured for RTG and Target Sports was headed to the United States for resale.

159. AC-Unity has continued its actions related to the Accused Product despite the Court's Preliminary Injunction Order against RTG; despite the PTAB's denial of institution of *inter partes* review on the merits and finding that RTG failed to establish a reasonable likelihood that RTG would prevail with respect to even one challenged claim of the '045 Patent; and despite Schmeisser notifying AC-Unity the '045 Patent issued, providing AC-Unity a copy of the '045 Patent, and notifying AC-Unity that AC-Unity's actions infringe upon the '045 Patent.

160. AC-Unity knows about the Preliminary Injunction Order against RTG, knows about the PTAB's decision on RTG's *inter partes* review petition, and knows about the '045

Patent, and its continued actions related to the Accused Product despite the Preliminary Injunction Order, the PTAB's decision on RTG's *inter partes* review petition, and the '045 Patent's issuance is intentional, willful, wanton, malicious, and done in bad faith, making this an exceptional case under 35 U.S.C. §§ 284 and 285.

161. Schmeisser is being damaged and irreparably harmed by AC-Unity's induced infringement of the '045 Patent and is thus entitled to recover damages adequate to compensate it for the induced infringement complained of in this Second Amended Complaint, but in no event less than a reasonable royalty.

162. AC-Unity's induced infringement has injured Schmeisser, and AC-Unity's induced infringement will continue to injure Schmeisser, unless and until such conduct is enjoined by this Court.

Count II: Infringement of U.S. Patent No. 10,866,045 by the AR Accused Product

163. Schmeisser incorporates by reference paragraphs 1 through 162 of this Second Amended Complaint as if more fully set forth herein.

164. Target Sports resale of the AR Accused Product in the United States and Target Sports and/or IZOP-K's import of the AR Accused Product into the United States directly infringes on claims 1, 11, 12, 13-15, and 17-19 of the '045 Patent literally and/or under the doctrine of equivalents.

165. AC-Unity knew or should have known the AR Accused Product AC-Unity manufactures infringes on the '045 Patent and knew or should have known the AR Accused Product manufactured for Target Sports was headed to the United States for resale.

166. AC-Unity's actions related to the AR Accused product induce infringement of the '045 Patent.

167. AC-Unity has continued its actions related to the AR Accused Product despite the Court's Preliminary Injunction Order against RTG; despite the PTAB's denial of institution of *inter partes* review on the merits and finding that RTG failed to establish a reasonable likelihood that RTG would prevail with respect to even one challenged claim of the '045 Patent; and despite Schmeisser notifying AC-Unity the '045 Patent issued, providing AC-Unity a copy of the '045 Patent, and notifying AC-Unity that AC-Unity's actions infringe upon the '045 Patent.

168. AC-Unity knows about the Preliminary Injunction Order against RTG, knows about the PTAB's decision on RTG's *inter partes* review petition, and knows about the '045 Patent, and its continued actions related to the AR Accused Product despite the Preliminary Injunction Order, the PTAB's decision on RTG's *inter partes* review petition, and the '045 Patent's issuance is intentional, willful, wanton, malicious, and done in bad faith, making this an exceptional case under 35 U.S.C. §§ 284 and 285.

169. In fact, after this Court enjoined RTG, AC-Unity continued to manufacture goods it knew or should have known infringed on the '045 Patent and knew or should have known were headed to the United States for resale in the United States.

170. Schmeisser is being damaged and irreparably harmed by AC-Unity's induced infringement of the '045 Patent and is thus entitled to recover damages adequate to compensate it for the induced infringement complained of in this Second Amended Complaint, but in no event less than a reasonable royalty.

171. AC-Unity's induced infringement has injured Schmeisser, and AC-Unity's induced infringement will continue to injure Schmeisser, unless and until such conduct is enjoined by this Court.

Jury Demand

Schmeisser requests a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, on all issues triable to a jury.

Prayer for Relief

WHEREFORE, Schmeisser seeks a judgment against AC-Unity and RTG, including the following:

- A. An injunction ordering that AC-Unity and RTG, and each of their respective officers, agents, servants, employees, and attorneys, and all of those persons in active concert or participation with them, be enjoined preliminarily and permanently from directly or indirectly infringing U.S. Patent No. 10,866,045; from making, using, offering to sell, selling, and/or importing the Accused Product and the AR Accused Product; from making, offering to sell, and/or selling the Accused Product and AR Accused Product to purchasers for resale within the United States; from making, using, offering to sell, selling, and/or importing any other 60 round quad stack magazines; and from making, offering to sell, and/or selling any other 60 round quad stack magazine to purchasers for resale within the United States;
- B. Schmeisser be awarded damages against AC-Unity and RTG accrued from the date of issue of U.S. Patent No. 10,866,045;
- C. Prejudgment and post-judgment interest;
- D. An assessment of Schmeisser's costs against AC-Unity and RTG;
- E. An assessment of up to three times damages under 35 U.S.C. § 284 against AC-Unity and RTG;

- F. An assessment of Schmeisser's reasonable attorney's fees under 35 U.S.C. § 285 against AC-Unity and RTG; and
- G. Such other and further relief as this Court may deem just and proper.

Respectfully submitted this 27th day of February 2023,

CARSON LLP

By:



J. Blake Hike, Pro Hac Vice (IN Bar #28601-02)
Jon A. Bragalone, Pro Hac Vice (IN Bar #3914-02)
301 W. Jefferson Blvd., Ste. 200
Fort Wayne, IN 46802
Main: (260) 423-9411
Email: hike@carsonllp.com
Email: bragalone@carsonllp.com

Attorneys for Plaintiff, Schmeisser GmbH

WELBORN SULLIVAN MECK & TOOLEY, P.C.

John A. Masterson, #5-2386
Hampton K. O'Neill, #5-2876
159 North Wolcott, Ste. 220
Casper, WY 82601
Main: (307) 234-6907
Email: jmasterson@wsmtlaw.com
Email: honeill@wsmtlaw.com

Attorneys for Plaintiff, Schmeisser GmbH

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2023, a true and accurate copy of the foregoing document was filed electronically with the Court's CM/ECF system and was served upon the following parties by the methods indicated below:

Lucas Buckley
Nathan Nicholas
Hathaway & Kunz, LLP
2515 Warren Avenue, Suite 500
Cheyenne, WY 82001
Email: lbuckley@hkwyolaw.com
Email: nnicholas@hkwyolaw.com
Attorneys for AC-Unity D.O.O.

Rick L. Koehmstedt
SCHWARTZ, BON, WALKER & STUDER, LLC
141 S. Center St., Ste. 500
Casper, WY 82601
Email: rick@schwartzbon.com
Attorney for RTG Parts, LLC

Sara Gillette, Pro Hac Vice
Kutak Rock, LLP
2300 Main St., Suite 800
Kansas City, MO 64108
Email: sara.gillette@kutakrock.com

Udo Büdding, Pro Hac Vice
BUDDING LEGAL
Dircksenstraße 52
10178 Berlin
Email: info@budding-legal.net
Pro Hac Vice Attorney for RTG Parts, LLC

Jason S. Jackson, Pro Hac Vice
Chad T. Nitta, Pro Hac Vice
Kutak Rock, LLP
1801 California St.
Denver, CO 80202
Email: jason.jackson@kutakrock.com
Email: chad.nitta@kutakrock.com
Pro Hac Vice Attorneys for RTG Parts, LLC

/s/ J. Blake Hike
