

CIVIL COVER SHEET

I (a) PLAINTIFFS

BACHMANN INDUSTRIES, INC.
1400 East Erie Street
Philadelphia, PA 19124

(b) COUNTY RESIDENCE OF FIRST LISTED PLAINTIFF Philadelphia County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Kevin R. Casey, Esquire
Gina M. Stowe, Esquire
Stradley, Ronon, Stevens & Young, LLP
Great Valley Corporate Center
30 Valley Stream Parkway
Malvern, PA 19355
(610) 640-5800

DEFENDANTS

ATI MODEL PRODUCTS, INC. d/b/a MODEL POWER
180 Smith Street
Farmingdale, NY 11735

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

- | | |
|---|---|
| PTF DEF | PTF DEF |
| Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY) Willful patent infringement under 35 U.S.C. §§ 271, 281, 283, 284 and 285.

V. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefit <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury — Med Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal <input type="checkbox"/> 423 Withdrawal <input type="checkbox"/> 424 28 USC 158 <input type="checkbox"/> 425 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395#) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609	<input type="checkbox"/> 400 State <input type="checkbox"/> 410 Reappointment <input type="checkbox"/> 430 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 890 Appeal to District Judge from Magistrate Judgment

VI. ORIGIN (PLACE AN x IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND

To Be Determined

JURY DEMAND: YES NO

VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE _____ DOCKET NUMBER _____

February 7, 2006

Kevin R. Casey
KRC2697
SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filing and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved).

(c) Attorneys. Enter firm name, address, telephone number, and attorney or record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction is based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United states, its officers or agencies, place an X in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate's decision.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference relating pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BACHMANN INDUSTRIES, INC.,	:	
	:	
Plaintiff,	:	
v.	:	CIVIL ACTION NO.
	:	
ATI MODEL PRODUCTS, INC d/b/a MODEL POWER,	:	TRIAL BY JURY IS REQUESTED
	:	
Defendant	:	

DISCLOSURE STATEMENT FORM

Please check one box:

The nongovernmental corporate party, _____, in the above listed civil action does not have any parent corporation and any publicly held corporation that owns 10% or more of its stock.

The nongovernmental corporate party, Bachmann Industries, Inc., in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock: Kader Ind. Co. Ltd. of Hong Kong.

2/7/06
Date

Kevin R. Corey KRC2697
Signature

Counsel for: Bachmann Industries, Inc.

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE: NONGOVERNMENTAL CORPORATE PARTY. A nongovernmental corporate party to an action or proceeding in a district court must file two copies of a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.

(b) TIME FOR FILING; SUPPLEMENTAL FILING. A party must:

- (1) file the Rule 7.1(a) statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court, and
- (2) promptly file a supplemental statement upon any change in the information that the statement requires.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BACHMANN INDUSTRIES, INC.,

Plaintiff,

v.

ATI MODEL PRODUCTS, INC. d/b/a
MODEL POWER,

Defendant

:
:
:
: CIVIL ACTION NO.
:
:
: TRIAL BY JURY IS REQUESTED
:
:

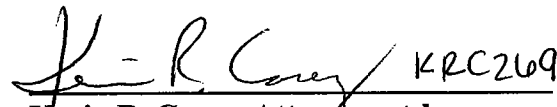
CASE MANAGEMENT TRACK DESIGNATION FORM

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus — Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security — Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration — Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos — Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management — Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)
- (f) Standard Management — Cases that do not fall into any one of the other tracks. ()

2/7/06
DATE

 KRC2697
Kevin R. Casey, Attorney-at-law

Bachmann Industries, Inc.
Attorney for Plaintiffs Civ. 660) 7/95

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

(a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.

(b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

(c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.

(d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.

(e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA – DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Bachmann Industries, Inc., 1400 East Erie Avenue, Philadelphia, PA 19124

Address of Defendant: ATI Model Products, Inc. d/b/a Model Power, 180 Smith Street, Farmingdale, NY 11735

Place of Accident, Incident or Transaction: Defendant presently sells the infringing product throughout the United States and the harm to Plaintiff is felt at its business residence in Philadelphia, PA.

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [] No [x]

Does this case involve multidistrict litigation possibilities? Yes [] No [x]

RELATED CASE IF ANY

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [] No [x]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [] No [x]
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [] No [x]

CIVIL: (Place [x] in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. [] Indemnity Contract, Marine Contract, and All Other Contracts
2. [] FELA
3. [] Jones Act – Personal Injury
4. [] Antitrust
5. [x] Patent
6. [] Labor – Management Relations
7. [] Civil Rights
8. [] Habeas Corpus
9. [] Securities Act(s) Cases
10. [] Social Security Review Cases
11. [] All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1. [] Insurance Contract and Other Contracts
2. [] Airplane Personal Injury
3. [] Assault, Defamation
4. [] Marine Personal Injury
5. [] Motor Vehicle Personal Injury
6. [] Other Personal Injury (Please specify)
7. [] Products Liability
8. [] Products Liability – Asbestos
9. [] All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check appropriate category)

I, Kevin R. Casey, counsel of record do hereby certify:

[x] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

[x] Relief other than monetary damages is sought.

Date: February 7, 2006

Kevin R. Casey
Attorney-at-Law

58083

Attorney I.D. #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

Date: February 7, 2006

Kevin R. Casey
Attorney-at-Law

58083

Attorney I.D. #

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BACHMANN INDUSTRIES, INC.,	:	
	:	
Plaintiff,	:	
v.	:	CIVIL ACTION NO.
	:	
ATI MODEL PRODUCTS, INC.	:	
d/b/a MODEL POWER,	:	TRIAL BY JURY IS REQUESTED
	:	
Defendant.	:	

COMPLAINT FOR WILLFUL PATENT INFRINGEMENT

The Parties

1. Plaintiff, Bachmann Industries, Inc. (“Bachmann”), is a Pennsylvania corporation having a principal place of business at 1400 East Erie Avenue, Philadelphia, Pennsylvania 19124.

2. Defendant, ATI Model Products, Inc. d/b/a Model Power (“Model Power”), is a New York corporation having a place of business at 180 Smith Street, Farmingdale, New York 11735.

Jurisdiction and Venue

3. Bachmann’s claim for willful patent infringement arises under the Patent Act of the United States of America and, more particularly, under 35 U.S.C. §§ 271, 281, 283, 284, and 285.

4. This Court has subject matter jurisdiction over those claims under 28 U.S.C. §§ 1331 (federal question) and 1338(a) (patents).

5. This action is between citizens of different States and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

6. Accordingly, this Court also has jurisdiction under the diversity statute, 28 U.S.C. § 1332(a)(1).

7. Venue is conferred on this Court by 28 U.S.C. §§ 1391 and 1400(b).

8. On information and belief, Model Power conducts substantial sales and business in the Commonwealth of Pennsylvania.

Claim for Willful Patent Infringement

9. On September 4, 1990, United States Letters Patent No. 4,953,785 (“the ‘785 patent”) was duly and legally issued by the United States Patent and Trademark Office to Hasbro, Inc. for an invention titled “Track Assembly for Toy Vehicle.” A copy of the ‘785 patent is attached to this Complaint as Exhibit A.

10. On April 2, 1996, United States Letters Patent No. 5,503,330 (“the ‘330 patent”) was duly and legally issued by the United States Patent and Trademark Office to Bachmann for an invention titled “Track Bed Simulating Assembly for Snap Together Model Railroad Track.” A copy of the ‘330 patent is attached to this Complaint as Exhibit B.

11. Bachmann is the assignee and owner of the entire right, title, and interest in both the ‘785 patent and the ‘330 patent, with the full right to enforce both of those two patents.

12. The track assembly disclosed and claimed in the ‘785 patent includes a first track section having an elongated fastening tongue element on one end and a second track section having a receiving slot on one end. The fastening tongue element is receivable in the receiving slot to connect the track sections together in a substantially aligned, end-to-end relation and it

includes an elongated resilient finger which is engageable with a detent in the receiving slot to releasably retain the fastening tongue element in the receiving slot.

13. The track assembly disclosed and claimed in the '330 patent is formed from preassembled track sections, each including a pair of spaced-apart parallel metal rails molded in place in a one-piece ladder-like body, and a track accessory in the form of a one-piece molded plastic body having no undercuts to permit fabrication of the body by simple two-piece open and close molds. Male latching members and female engagement structures are integrally molded at each end of each track body, side-by-side for releasable latching engagement with like structures on the ends of like bodies. Each molded body including its latching members and engagement structures is adapted by the provision of suitable openings, spaces, and recesses to permit top-to-bottom nesting engagement of identical track assemblies with one another for protection and reduced storage size.

14. Bachmann sells a commercial embodiment of the track assembly disclosed and claimed in the '785 and '330 patents under the designation E-Z Track[®].

15. The E-Z Track[®] product as has been and continues to be of great value to Bachmann.

16. Bachmann has long been manufacturing and selling, and continues to manufacture and sell, its E-Z Track[®] with great commercial success.

17. Bachmann has placed and continues to place the statutory notice required by 35 U.S.C. § 287 on all E-Z Track[®] products that it has manufactured and sold under the '785 and '330 patents.

18. Model Power has long been aware of the '785 and '330 patents. In 1997, Bachmann brought an action against Model Power in the United States District Court for the Eastern District of Pennsylvania, Civil Action No. 97-CV-3190, in which Bachmann asserted that Model Power's Lock-it Roadbed Track System infringed claims of the '785 patent (the "1997 Action").

19. Bachmann and Model Power settled the 1997 Action, with Model Power agreeing to a license.

20. The Bachman/Model Power license agreement expired in 2003 thereby terminating Model Power's right to manufacture and market products covered by the '785 patent.

21. Since the expiration of the Bachman/Model Power license in 2003, Model Power has manufactured and marketed, and continues to manufacture and market, track assembly ("the Model Power Track"), photographs of which are attached to this Complaint as Exhibit C.

22. The Model Power Track infringes one or more claims of the '785 patent.

23. The Model Power Track infringes one or more claims of the '330 patent.

24. On March 16, 2005, Matthew Tager, President of Model Power, sent a letter to Bud Reece, Sr. Vice President Sales & Marketing of Bachmann, asserting, among other things, that the Model Power Track does not infringe any claim of the '785 patent.

25. Kevin R. Casey, patent counsel for Bachmann, sent Mr. Matthew Tager a responsive letter on April 18, 2005, stating, among other things, that the Model Power Track did, in fact, infringe at least one claim of the '785 patent.

26. The April 18, 2005 letter also requested a detailed explanation for Model Power's statement that the Model Power Track does not infringe any claims of the '785 patent.

27. The April 18, 2005 letter also expressly referred to the '330 patent.

28. To date, Model Power has not provided any explanation supporting its statement that the Model Power Track does not infringe claims of the '785 patent, nor has Model Power addressed the infringement of the '330 patent at all.

29. To date, Model Power has neither assured Bachmann that it will cease its infringement nor, on information and belief, that Model Power has ceased such infringement.

30. Model Power has been and still is infringing the claims of the '785 patent and Bachmann's rights under that patent by making, using, offering for sale, importing, and/or selling a product that embodies the patented invention.

31. Model Power has been and still is infringing the claims of the '330 patent and Bachmann's rights under that patent by making, using, offering for sale, importing, and/or selling a product that embodies the patented invention.

32. Upon information and belief, Model Power will continue to infringe the claims of the '785 patent unless enjoined by this Court.

33. Upon information and belief, Model Power will continue to infringe the claims of the '330 patent unless enjoined by this Court.

34. Upon information and belief, Model Power's infringement of the '785 and '330 patents has been deliberate and willful at all times relevant to the present action.

35. Upon information and belief, the infringing acts of Model Power have been committed within the jurisdiction of this Court.

36. As a consequence of Model Power's infringing acts, Bachmann has been deprived of rights and profits which otherwise would have accrued to Bachmann but for such infringement and, thereby, Model Power has caused Bachmann irreparable damage and threatens to cause Bachmann irreparable damage in the future.

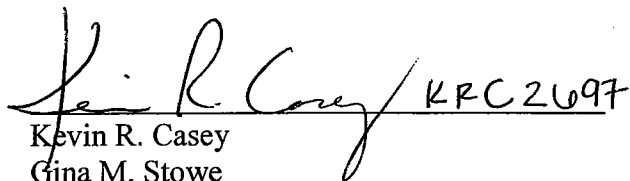
WHEREFORE, Bachmann requests an Order of this Court that:

- (a) The '785 patent is valid and enforceable;
- (b) The '330 patent is valid and enforceable;
- (c) Model Power has infringed at least one claim of the '785 patent;
- (d) Model Power has infringed at least one claim of the '330 patent;
- (e) Model Power, its officers, directors, employees, agents, and all those under their direction and control, are preliminarily and permanently enjoined from making, using, offering for sale, importing, and selling track which embodies the invention claimed in the '785 patent;
- (f) Model Power, its officers, directors, employees, agents, and all those under their direction and control, are preliminarily and permanently enjoined from making, using, offering for sale, importing, and selling track which embodies the invention claimed in the '330 patent;
- (g) Assesses against Model Power damages, including Bachmann's lost profits, caused by Model Power's infringement of the '785 patent;
- (h) Assesses against Model Power damages, including Bachmann's lost profits, caused by Model Power's infringement of the '330 patent;
- (i) Model Power's infringement is and has been deliberate, willful, and wanton, with knowledge of Bachmann's patent rights and, accordingly, awards Bachmann increased damages under 35 U.S.C. § 284 up to three times the amount assessed;
- (j) Assesses interest and costs against Model Power;
- (k) This is an exceptional case under 35 U.S.C. § 285 and, accordingly, awards Bachmann its reasonable attorney's fees; and

(l) Grants such other relief to Bachmann as this Court deems just, fair and reasonable.

Respectfully submitted,

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Kevin R. Casey
Gina M. Stowe
Stradley Ronon Stevens & Young, LLP
30 Valley Stream Parkway
Malvern, PA 19355
(610) 640-5800

Attorneys for Plaintiffs, Bachman Industries, Inc.