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block)

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*RSI Rock Solid Industries International*  
*(Pty) Ltd.*

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

RSI ROCK SOLID INDUSTRIES  
INTERNATIONAL (PTY) LTD.,

Plaintiff,

v.

CHRISTOPHER GRAJO, an individual;  
and bynd4x4,

Defendant.

Case No. \_\_\_\_\_

**ORIGINAL COMPLAINT FOR  
PATENT INFRINGEMENT**

**JURY TRIAL DEMANDED**

1 Plaintiff, RSI Rock Solid Industries International (Pty) Ltd. (“RSI”), files this  
2 complaint for patent infringement against Christopher Grajo and bynd4x4 (“Bynd”)  
3 (collectively, “Defendants”) and alleges as follows:

4 **NATURE OF THE ACTION**

5 1. This is a civil action arising under the patent laws of the United States, 35  
6 U.S.C. § 1 *et seq.*, including specifically 35 U.S.C. §§ 271 and 289, based on Bynd’s  
7 infringement of U.S. Design Patent Nos. D961,492 (the “’492 Patent” or “Patent-in-  
8 Suit”).

9 2. A true and accurate copy of the ’492 Patent is attached as Exhibit A to this  
10 Complaint.

11 **THE PARTIES**

12 3. RSI Rock Solid Industries International (Pty) Ltd. (“RSI”) is a limited  
13 liability company with an office at 1501 Joel East Rd., Fort Worth, TX 76140.

14 4. Upon information and belief, Christopher Grajo is an individual that  
15 resides at 9603 Del Seis Drive, Sacramento, CA 95829.

16 5. Upon information and belief, Bynd is a privately held California  
17 Corporation owned and operated by Christopher Grajo with a principal place of  
18 business in 9603 Del Seis Drive, Sacramento, CA 95829.

19 **JURISDICTION AND VENUE**

20 6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331  
21 and 1338(a) because the claims herein arise under the patent laws of the United States,  
22 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271 and 289.

23 7. This Court has general and specific personal jurisdiction over Defendants  
24 in this action at least because Defendants reside in the State of California, and  
25 Defendants have committed infringing acts within this District giving rise to this action,  
26 and Defendants has established minimum contacts with this forum such that the exercise  
27 of jurisdiction over Defendants would not offend traditional notions of fair play and  
28 substantial justice.

1 8. Defendants conducts systematic and regular business within the State of  
2 California by at least residing in this District.

3 9. Defendants regularly does or solicits business in this District and has  
4 committed one or more acts of patent infringement in this District. For example, Bynd  
5 has provided through its website the Tactical Cap (Tacoma Short Bed 2016 - 2023),  
6 Tactical Cap (Tacoma Long Bed 2016 - 2023), Tactical Cap (Tundra Gen 3), Tactical  
7 Cap (Ford F150 Shortbed - 2020), Tactical Cap (Tacoma Long Bed 2005 - 2015),  
8 Tactical Cap (Jeep Gladiator JT 2020-2023), Tactical Cap (Tundra Gen 2 - 6.5' Bed),  
9 Tactical Cap (Tundra Gen 2 - 5.5' Bed) and Steel Tactical Cap - 2nd Gen Tundra - 6.5'  
10 Bed) and products that operate in a similar manner (the "Accused Products").

11 10. Upon information and belief, Defendants owns and stores equipment such  
12 as modular truck cap systems within the District, such as those described on the  
13 "installation" portion of Defendants' website here:  
14 <https://www.bynd4x4.com/products/installation> (last visited: Sept. 4, 2023).

15 11. Venue in this District is proper under 28 U.S.C. § 1400(b) because, on  
16 information and belief, Defendants reside in Sacramento, California.

17 12. Venue is further proper because Defendants have committed and continues  
18 to commit acts of patent infringement in this District, including making, using,  
19 importing, offering to sell, and/or selling Accused Products in this District, and/or  
20 importing the Accused Products into, and thereafter providing Accused Products in, this  
21 District, including by Internet sales.

22 **FACTUAL BACKGROUND**

23 13. RSI was founded in South Africa by Mike Voss and others. RSI was  
24 responsible for the development of the initial versions of the SmartCap® truck canopy  
25 systems. It also developed other outdoor modular accessories to add increased function  
26 to the SmartCap® products for consumer use.

1        14. RSI has continued to be a market leader for vehicle canopy systems,  
2 innovating new designs and implementing cutting edge technology to allow increased  
3 cargo weight and maintaining a lightweight frame design.

4        15. RSI continues to market across many channels including, among others,  
5 the Internet.

6        16. For years, RSI pioneered innovative vehicle canopy technologies, as well  
7 as related camping accessories. These technologies increased consumer uses of the  
8 products to allow more versatile utilization in camping adventures and improving the  
9 cargo accessibility. These innovations represented significant advances in the field,  
10 simplified the implementation of those advances, and reduced expenses for providers  
11 and customers alike.

12        17. The '492 Patent is the result of RSI's investment of time and money into  
13 the research and development in modular vehicle canopy systems.

14        18. On information and belief, Defendants have copied this patented  
15 innovation to provide knock-off modular vehicle canopies and/or caps and other  
16 accessories, including the Accused Products.

17        19. As a result, RSI sent a cease and desist letter to Bynd on February 22, 2023,  
18 alleging that Defendants' Accused Products infringe at least claim 1 of the '492 Patent  
19 and demanding that Bynd immediately cease its infringing conduct. A copy of RSI's  
20 cease and desist letter is attached as Exhibit B to this Complaint.

21        20. After receiving actual notice of its infringement from RSI, Defendants  
22 continued their infringing activities despite their awareness of RSI's notice of  
23 infringement and the risk that Defendants were (and continue to) infringe the '492  
24 Patent.

25        21. RSI then sent another letter to Bynd demanding that it cease its infringing  
26 conduct. A copy of RSI's second letter is attached as Exhibit C to this Complaint.

27        22. To date, Defendants' infringing conduct has continued and Defendants  
28 have declined to cease its infringement of the '492 Patent.

**COUNT I**

**(Infringement of the '492 Patent)**

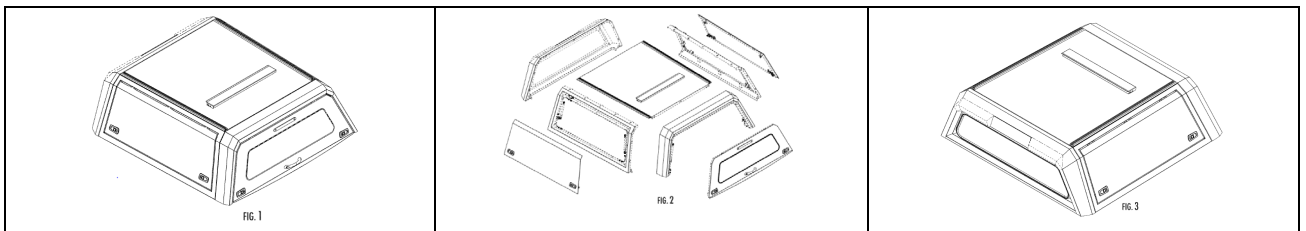
23. RSI incorporates by reference each allegation of Paragraphs 1 through 21.

24. The '492 Patent was duly and legally issued by the United States Patent and Trademark Office on August 23, 2022, from Application Serial No. 29/707,700, filed on September 30, 2019, and is valid and enforceable.

25. RSI is the owner by assignment to all right, title, and interest to the '492 Patent.

26. The '492 Patent generally describes an ornamental design for a canopy for a truck, or similar vehicle, and is entitled "CANOPY FOR A VEHICLE, TRUCK, LIGHT DELIVERY VEHICLE OR SIMILAR VEHICLE."

27. The '492 Patent discloses and claims the non-functional ornamental design aspects for a modular vehicle canopy, which is described and shown from multiple perspectives in Figures 1–3, reproduced below.



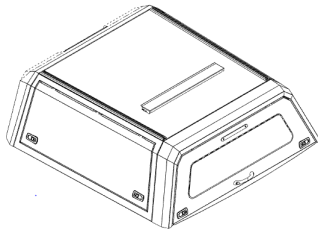

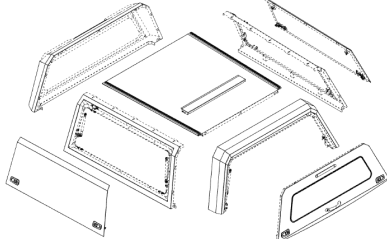



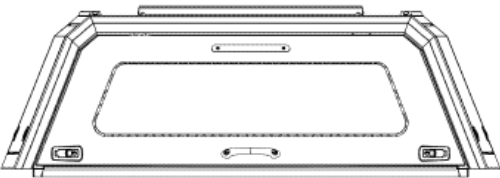

28. RSI's SmartCap® truck cap system is an example of the ornamental design disclosed and claimed by the '492 Patent. The catalogue can be found at: [https://drive.google.com/file/d/1-uOKFxLu0acz14XbrrhAVu\\_h\\_3JxO\\_-S/view?usp=sharing](https://drive.google.com/file/d/1-uOKFxLu0acz14XbrrhAVu_h_3JxO_-S/view?usp=sharing) (last visited: Sept. 4, 2023).

29. Images of samples of the Accused Products are identified in the charts below.

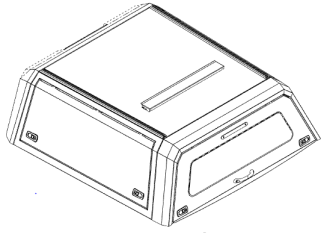

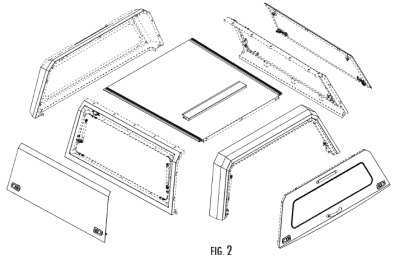

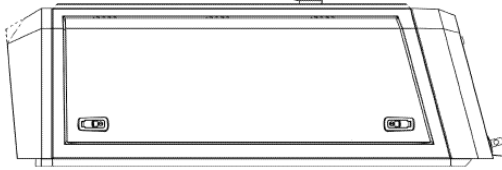

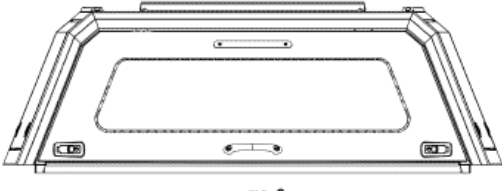

30. On information and belief, the Accused Products are designed for use in the open bed of a vehicle.

31. Notwithstanding RSI's rights, Defendants, without permission or authorization, have imported, offered for sale, and/or sold certain vehicle canopy systems including at least the Accused Products along with any other similarly configured products, which each infringe the claim of the Patent-in-Suit. As the exemplary side-by-side comparisons shown below demonstrate, Defendants have copied RSI's patented SmartCap® designs in the Accused Products.

32. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Defendants' Tactical Cap (Tacoma Short Bed 2016–2023), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-short-bed-2016-2022> (last visited: Sept. 4, 2023).

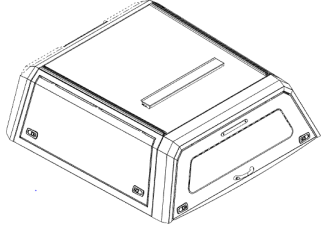

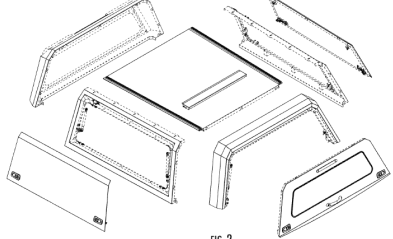

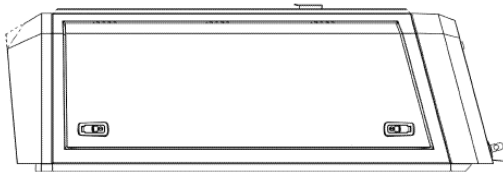

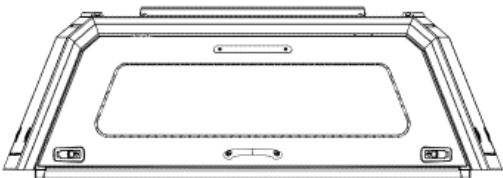

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1		
Fig. 2		
Fig. 7		
Fig. 9		

33. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Defendants' Tactical Cap (Tacoma Long Bed 2016–2023), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-long-bed-2016-2022> (last visited: Sept. 4, 2023).

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1		
Fig. 2		
Fig. 7		
Fig. 9		

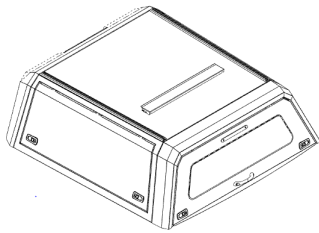

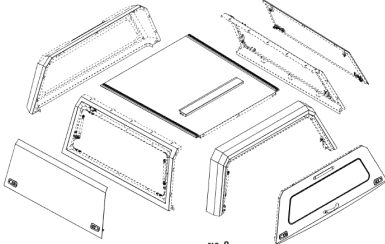

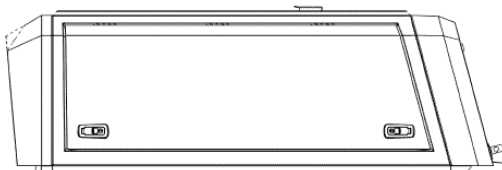

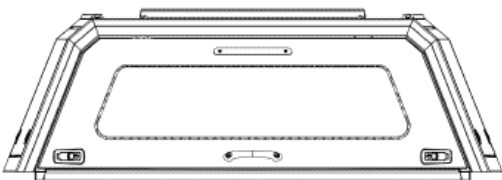

34. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Defendants' Tactical Cap (Tundra Gen 3), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tundra-gen-3> (last visited: Sept. 4, 2023).



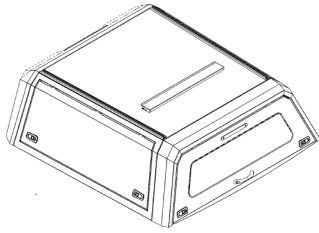

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 <p>FIG. 1</p>	
Fig. 2	 <p>FIG. 2</p>	
Fig. 7	 <p>FIG. 7</p>	
Fig. 9	 <p>FIG. 9</p>	

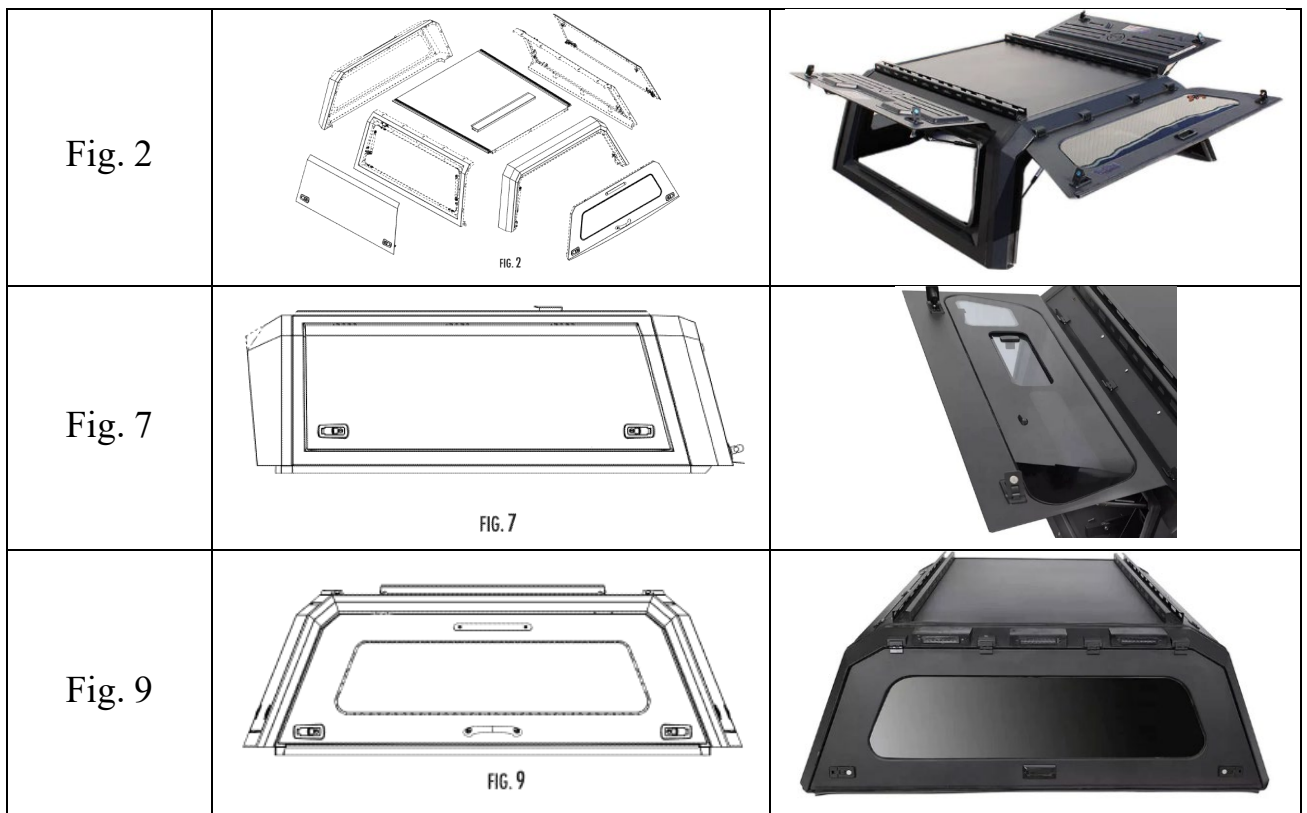
35. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Defendants' Tactical Cap (Ford F150 Shortbed-2020), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-ford-f150-shortbed-2020> (last visited: Sept. 4, 2023).



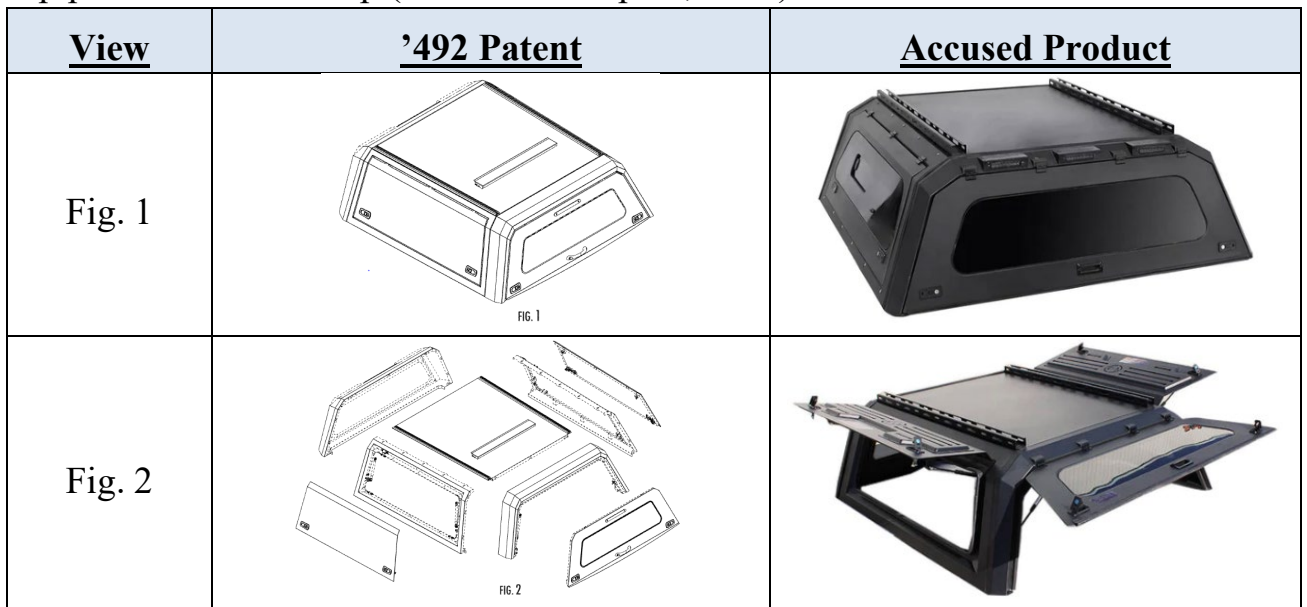
<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 FIG. 1	
Fig. 2	 FIG. 2	
Fig. 7	 FIG. 7	
Fig. 9	 FIG. 9	

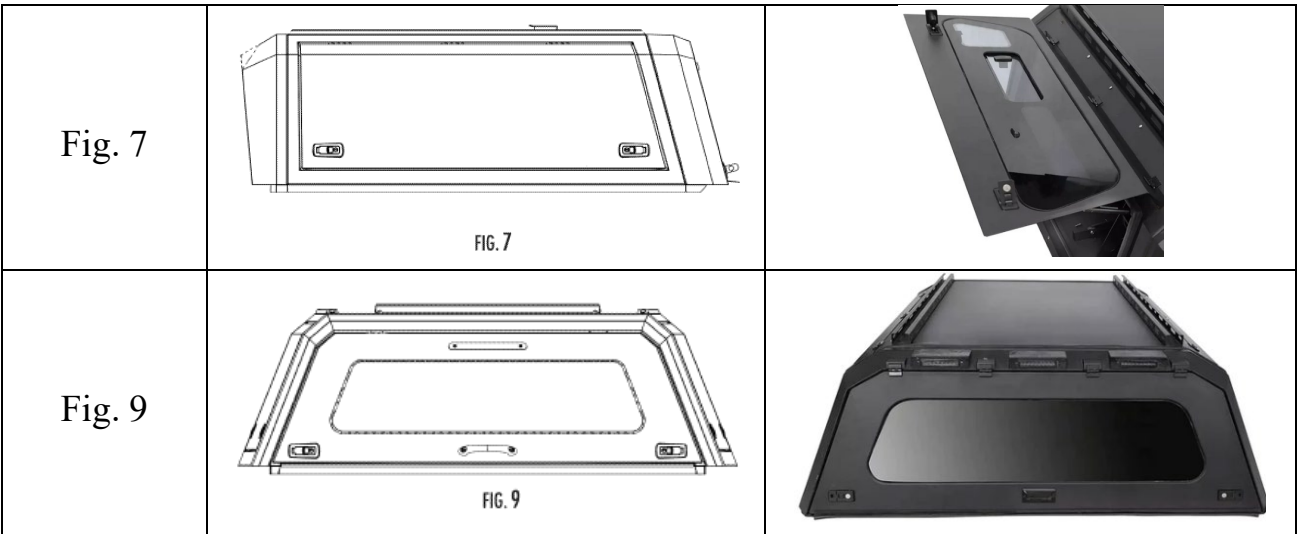
36. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Defendants' Tactical Cap (Tacoma Long Bed 2005–2015), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tacoma-long-bed-2005-2015> (last visited: Sept. 4, 2023).

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 FIG. 1	

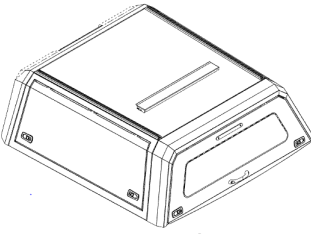

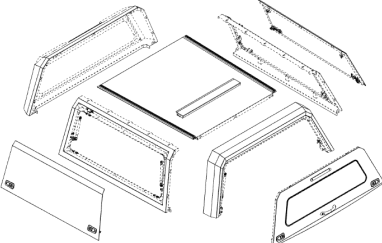

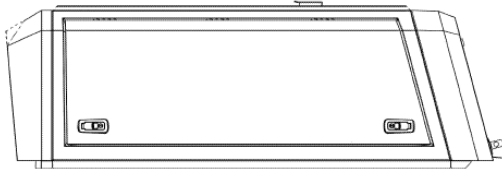



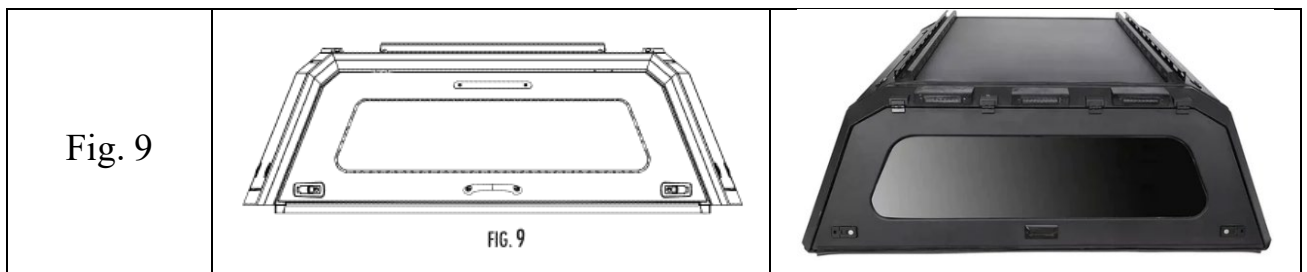
37. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Defendants' Tactical Cap (Jeep Gladiator JT 2020–2023), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap> (last visited: Sept. 4, 2023).



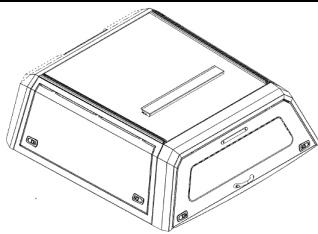

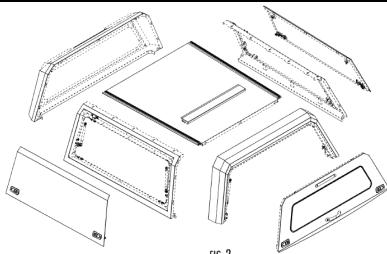

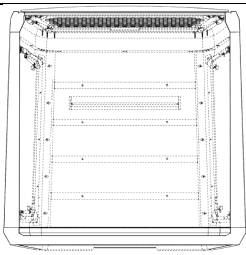

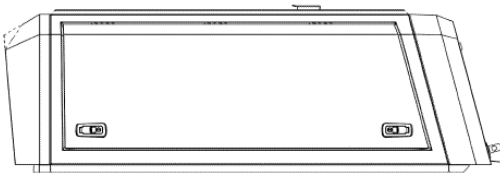



38. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Defendants' Tactical Cap (Tundra Gen 2-6.5' Bed), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tundra-2019-2021-6-5-double-cab> (last visited: Sept. 4, 2023).

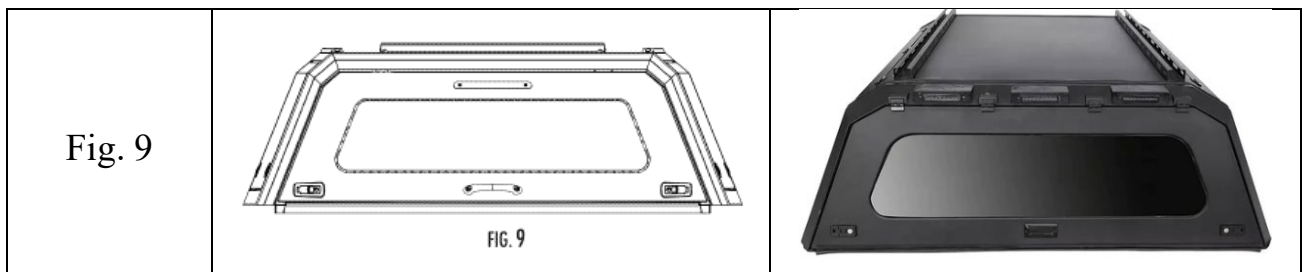
<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 FIG. 1	
Fig. 2	 FIG. 2	
Fig. 7	 FIG. 7	



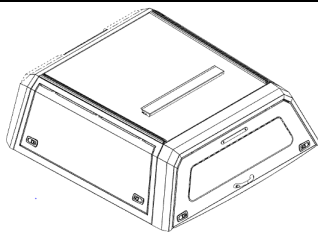

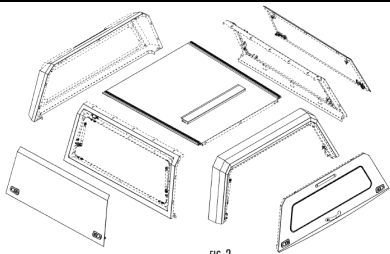

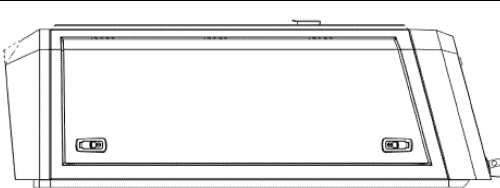

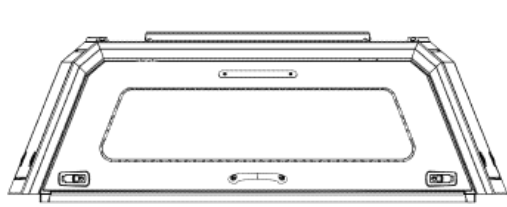

39. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Defendants' Tactical Cap (Tundra Gen 2–5.5' Bed), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/tactical-cap-tundra-gen-2-5-5-bed> (last visited: Sept. 4, 2023).

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 FIG. 1	
Fig. 2	 FIG. 2	
Fig. 6	 FIG. 6	
Fig. 7	 FIG. 7	





40. The chart below shows a comparison of the Figures of the '492 Patent with a sample of Defendants' Steel Tactical Cap-2nd Gen Tundra-6.5' Bed), which is available online at: <https://www.bynd4x4.com/collections/tactical-cap/products/steel-tactical-cap-2nd-gen-tundra-6-5-bed> (last visited: Sept. 4, 2023).

<u>View</u>	<u>'492 Patent</u>	<u>Accused Product</u>
Fig. 1	 <p style="text-align: center;">FIG. 1</p>	
Fig. 2	 <p style="text-align: center;">FIG. 2</p>	
Fig. 7	 <p style="text-align: center;">FIG. 7</p>	
Fig. 9	 <p style="text-align: center;">FIG. 9</p>	

41. The Accused Products are truck bed canopies with ornamental designs that infringe the '492 Patent. As shown in the charts in paragraphs 31–39 above, the Accused

1 Products implement the ornamental design for the SmartCap® truck bed canopies as  
2 shown and described in the '492 Patent.

3 42. Defendants' infringing Accused Products contain each and every aspect of  
4 the claimed design in '492 Patent.

5 43. In the eye of an ordinary observer, giving such attention as a purchaser  
6 usually gives, the non-functional ornamental design for the truck bed canopy claimed  
7 in the '492 Patent and the Accused Products are substantially the same, with  
8 resemblance such as to deceive an ordinary observer, inducing him or her to purchase  
9 an Accused Product believing it to be the design claimed in the '492 Patent.

10 44. On information and belief, Defendants, without authority, has directly  
11 infringed and continues to directly infringe the '492 Patent, under 35 U.S.C. § 271(a),  
12 at least by manufacturing, importing, distributing, selling, offering for sale, and/or using  
13 within the United States at least the Accused Products.

14 45. Defendants became aware of the issued claim of the '492 Patent no later  
15 than RSI's letter to Bynd dated February 22, 2023. Since at least that date, Defendants  
16 have knowingly and willfully infringed the '492 Patent by manufacturing, importing,  
17 using, selling, and offering to sell the Accused Products, entitling RSI to increased  
18 damages under 35 U.S.C. § 284.

19 46. As a result of Defendants' infringement of the '492 Patent, RSI has  
20 suffered and will continue to suffer damages. RSI is entitled to recover damages  
21 adequate to compensate it for such infringement, but in no event less than a reasonable  
22 royalty, as permitted under 35 U.S.C. § 284, as well as all remedies for design patent  
23 infringement permitted under 35 U.S.C. § 289.

24 47. Defendants' infringement of the '492 Patent is causing irreparable harm  
25 for which RSI has no adequate remedy at law unless Defendants are preliminarily and  
26 permanently enjoined by this Court. RSI is entitled to a permanent injunction against  
27 further infringement of the '492 Patent under 35 U.S.C. § 284.



1 48. In light of the allegations above, including Defendants' willful and  
2 ongoing infringement of the '492 Patent, this case is exception under 35 U.S.C. § 285,  
3 entitling RSI to its costs and attorneys' fees incurred in prosecuting this action.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, RSI requests that:

6 A. The Court find that Defendants have directly infringed '492 Patent and  
7 hold Defendants liable for such infringement;

8 B. The Court find that Defendants' infringement of the '492 Patent has been  
9 and continues to be willful;

10 C. The Court issue a preliminary and permanent injunction against  
11 Defendants and its affiliates, subsidiaries, assignees, employees, agents or anyone  
12 acting in privity or concert from infringing the '492 Patent, including enjoining the  
13 making, offering to sell, selling, using, or importing into the United States products  
14 claimed in the '492 Patent; using or incorporating the design claimed in the '492 Patent,  
15 until its expiration;

16 D. The Court award damages pursuant to 35 U.S.C. § 284 adequate to  
17 compensate RSI for Defendants' past infringement of the '492 Patent, including both  
18 pre- and post-judgment interest and costs as fixed by the Court;

19 E. The Court award RSI the total profit made by Defendants from its  
20 infringement of the '492 Patent under 35 U.S.C. § 289;

21 F. The Court award RSI increased damages under 35 U.S.C. § 284 for  
22 Defendants' willful and deliberate infringement of the '492 Patent;

23 G. The Court declare that this is an exceptional case entitling RSI to its  
24 reasonable attorneys' fees and costs under 35 U.S.C. § 285; and

25 H. The Court award such other relief as the Court may deem just and proper.

26 **JURY TRIAL DEMANDED**

27 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, RSI hereby  
28 requests a trial by jury on all issues raised by this Complaint.

1 Dated: September 15, 2023

Respectfully submitted,

2 By: /s/Erik Halverson

3 Erik Halverson (SBN 333492)

4 erik.halverson@klgates.com

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11 Chicago, IL 60602

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13 Fax: (312) 827-8000

14 *Attorneys for Plaintiff*

15 *RSI Rock Solid Industries International (Pty)*  
16 *Ltd.*