

**IN THE UNITED STATE DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DYNOCOM INDUSTRIES, INC.,

Plaintiff,

v.

MAGICMOTORSPORT S.R.L.

Defendant.

C.A. No.: 23-12648

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Dynocom Industries, Inc. (“Dynocom”), by counsel, files this complaint against Magicmotorsport s.r.l. (“Magicmotorsport”), for patent infringement and in support thereof, Plaintiff states as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action to enjoin the manufacture, importation, distribution, use, sales, and offers to sell by Defendants of a certain product known as Dynomag Hub (“Accused Product”) that infringe or contribute toward the infringement of a valid and enforceable U.S. Patent owned by Plaintiff, as well as for monetary damages for Defendants’ willful infringement.

PARTIES

2. Plaintiff Dynocom is a corporation organized under the laws of the State of Texas with its principal place of business at 2447 Riverbend West Drive, Fort Worth, TX 76118.

3. Upon information and belief, Magicmotorsport s.r.l. is an Italian entity with an address of Contrada Margi Soprano SNC Zona artigianale, 90047 Partinico PA, Italy.

JURISDICTION AND VENUE

4. This action arises pursuant to Chapter 35 of the United States Code regulating and protecting patents. This Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. §§1331, 1338(a) as the case involves Magicmotorsport's infringement of U. S. Patent No. 8,505,374 ("the '374 Patent").

5. Personal jurisdiction over Defendant Mode Tech is also proper pursuant to Federal Rule of Civil Procedure 4(k)(2) by conducting business in Country. Magicmotorsport is selling or attempting to sell products at the The SEMA Show at the Las Vegas Convention Center from October 31 - November 3, 2023 that infringe Dynocom's '374 Patent. Mode Tech is also subject to personal jurisdiction in this District as Magicmotorsport's website, <https://www.magicmotorsport.com/>, sells the Accused Product through the website.

6. Venue is proper here pursuant to 28 U.S.C. § 1391(c)(3) (*In re HTC Corp.*, 889 F.3d 1349, 1357-60 (Fed. Cir. 2018)), given that Magicmotorsport is a foreign company subject to nationwide venue.

THE PATENT-IN-SUIT

7. On August 13, 2013, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 8,505,374 ("'374 Patent," attached as Exhibit A), entitled "Portable On Vehicle Dynamometer" to Plaintiff.

8. Any required maintenance fees have been paid, and the '374 Patent has not expired.

9. Plaintiff is the owner by assignment of the entire right, title and interest in the '374 Patent and thus Plaintiff has standing to sue for infringement of the '374 Patent.

10. Paul N. Arseneau ("Mr. Arseneau") is the founder of Plaintiff and the sole inventor of the '374 Patent.

11. On December 10, 2009, Mr. Arseneau filed a non-provisional application, U.S. Patent Application No. 12/635,694 ("694 Application").

12. Mr. Arseneau assigned the '694 Application to Plaintiff.

13. The '694 Application issued as the '374 Patent on August 13, 2013.

14. The '374 Patent issued in the name of Plaintiff, Dynocom, Inc.

FACTS

15. Dynocom was founded by Paul Arseneau in 2004 with the goal of designing and manufacturing innovative chassis dynamometers. In 2006, due to high demand in the United States, Dynocom opened its Texas manufacturing facility.

16. Plaintiff is the fastest growing dynamometer company in the world and Plaintiff's products have attained global support and recognition. The company has distribution in throughout the world, including Europe, as well as in the United States.

17. Despite knowledge of the '374 Patent, Magicmotorsport has offered to sell a chassis dynamometers branded as DynoMag in which appears to be a copy of Dyncom's vehicle dynamometers that embodies the '374 Patent.

18. Magicmotorsport has sold or has offered for sale the Accused Product in the United States, including at the 2023 SEMA Show ("SEMA Show") in Las Vegas, NV, that infringe the '374 Patent. Exhibit B.

19. Magicmotorsport markets the Accused Product on its web site (<https://magicmotorsport.shop/en/shop/dyno/dynomag-hub-precise-compact-dyno-2wd-4wd-vehicles.html>) as well as through Facebook. Exhibit C.

20. On or about October 30-31, 2023, a Magicmotorsport representative, spoke with Ms. Allison Blackstein, Plaintiff's Director of Sales & Marketing, at the SEMA Show trade show in Las Vegas, Nevada, and Magicmotorsport was informed the Accused Product it was displaying and selling infringed the '374 Patent.

21. Immediately following the Parties' encounter at the SEMA Show, Defendant's COO, Giuseppe Gaglio ("Mr. Gaglio"), emailed the Plaintiff stating that despite being informed its Accused Product infringed the '374 Patent it would continue to display and sell the Accused Product at the SEMA Show.

22. Mr. Gaglio's email expressed how "significant" the SEMA Show was for Magicmotorsport to "explore potential leads" for the Accused Product.

23. Counsel for the Plaintiff replied to Mr. Gaglio informing him that the Accused Product infringed the '374 Patent and that Magicmotorsport's continued display and sale of it at the SEMA Show would be a willful infringement of the Plaintiff's '374 Patent.

24. Magicmotorsport continued to display the Accused Product and was an active participant in the SEMA Show and actively marketed its infringing products within the United States.

25. To date, despite attempts by Plaintiff to seek a resolution short of litigation, Defendants have continued to ignore requests that it cease marketing the infringing product.

26. Magicmotorsport is, among other things, manufacturing, importing, using, selling, and/or offering to sell the Accused Product, which infringes the '374 Patent.

27. Consequently, Plaintiff's right to relief arises out of the same transaction, occurrence, and/or series of transactions or occurrences relating to the making, importing, using, offering for sale, and/or selling the same infringing product.

COUNT 1
(INFRINGEMENT OF THE '374 PATENT)

28. Plaintiff repeats and re-alleges each and every allegation set forth in the preceding paragraphs of this Complaint.

29. Plaintiff is the owner of the entire right, title, and interest in the '374 Patent.

30. Magicmotorsport manufactures, uses, imports, distributes, offers to sell, and/or sells in the United States one or more chassis dynamometers, that infringe the '374 Patent, at least one of which is called the DynoMag.

31. On or about October 31, 2023, Plaintiff informed Magicmotorsport that its DynoMag infringed the '374 Patent and requested that Magicmotorsport cease marketing the DynoMag because it infringed the '374 Patent.

32. Magicmotorsport has infringed and continues to infringe, one or more claims of the '374 Patent by making, using, importing, offering to sell, and/or selling within the United States the DynoMag.

33. Claim 1 of the '374 Patent recites:

A portable on vehicle dynamometer for determining power output from a drive shaft, comprising:

a rigid frame;

a load shaft rotatably coupled to said rigid frame;

an eddy current brake having a stator connected to said rigid frame, and a rotor connected to said load shaft;

a hub coupling secured to a first end of said load shaft and connected directly to the drive shaft for transferring power to the load shaft, wherein said hub coupling, said drive shaft and said load shaft co-axially rotate;

said rigid frame having two outwardly extending support arms, and arm locks which secure said outwardly extending support arms in fixed positions;

support feet assemblies mounting to respective ones of outer ends of said support arms; and

two roller assemblies mounted to a lower end of said rigid frame, providing multidirectional movement of said dynamometer.

34. As set forth on Magicmotorsport's website: (<https://magicmotorsport.shop/en/shop/dyno/dynomag-hub-precise-compact-dyno-2wd-4wd-vehicles.html>), Magicmotorsport is actively making, using and selling a chassis dynamometer that incorporates each and every limitation of Claim 1 of the '374 Patent.

35. Additionally, upon inspection at the SEMA Show the DynoMag Magicmotorsport is displaying and selling a chassis dynamometer that incorporates each and every limitation of Claim 1 of the '374 Patent.

36. Specifically Magicmotorsport's website illustrates and describes its DynoMag product, which is a portable on vehicle dynamometer ("POD") and states that its "coupled directly to the wheel hub of the vehicle" which conforms precisely to the limitation recited by claim 1 of "a hub coupling secured to a first end of said load shaft and connected directly to the drive shaft for transferring power to the load shaft... ."

37. Magicmotorsport's infringement of the '374 Patent has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for the infringement, which in no event can be less than a reasonable royalty.

43. Magicmotorsport's infringement of the '374 Patent has been willful because Magicmotorsport made, used, offered for sale, and sold infringing products after Magicmotorsport was given on actual notice and knew or should have known of such risk when it infringed the '374 Patent.

44. Plaintiff has been, and continues to be, damaged and irreparably harmed by Magicmotorsport's infringement, which will continue unless enjoined by this Court.

JURY DEMAND

Dynocom demands a trial by jury on all claims so triable.

PRAYER FOR RELIEF

Wherefore, Dynocom respectfully request that the Court enter judgment in their favor and against Magicmotorsport as follows:

- A. A judgment holding Defendant liable for infringement of the '374 Patent;
- B. A temporary restraining order, preliminary injunction, and permanent injunction against Defendant, its officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '374 Patent, including without limitation, an injunction against offers for sale and future sales of the infringing product;

- C. An accounting for damages and an award of compensatory damages resulting from Defendant's infringement of the '374 Patent, together with pre-judgment and postjudgment interest;
- D. A judgment holding that Defendant's infringement of the '374 Patent is willful and a trebling of damages pursuant to 35 U.S.C. § 284;
- E. A judgment holding that this action is an exceptional case and an award to Plaintiff for its attorney's fees and costs pursuant to 35 U.S.C. § 285 and other authority;
- F. A judgment that Plaintiff be awarded its costs incurred herein; and
- G. Such other relief as the Court deems just and equitable.

Date: November 2, 2023.

Respectfully Submitted By,
Attorneys for Plaintiff
Dynocom Industries, Inc.

/s/ Brendan M. Shortell
Brendan M. Shortell (BBO# 675851)
Lambert Shortell & Connaughton
100 Franklin Street, Suite 903
Boston, MA 02110
Main: (617)-720-0091
shortell@lambertpatentlaw.com