

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 1:23-cv-24931-CMA

DAVID'S DOZER V-LOC SYSTEM INC., and
DAVID ARMAS,

Plaintiffs,

v.

DEERE & COMPANY;
JOHN DEERE CONSTRUCTION & FORESTRY
COMPANY; DOBBS EQUIPMENT, LLC; and
EFE, INC. D/B/A EVERGLADES EQUIPMENT GROUP;

Defendants.

SECOND AMENDED COMPLAINT

Plaintiffs David's Dozer V-Loc System Inc. ("David's Dozer") and David Armas ("Mr. Armas" and collectively with David's Dozer, "Plaintiffs") file this Amended Complaint against Defendants Deere & Company, John Deere Construction & Forestry Company ("JDCFC"); Dobbs Equipment, LLC ("Dobbs"); and EFE, Inc. d/b/a Everglades Equipment Group ("Everglades") (collectively, the "Defendants") alleging the following:

NATURE OF THE ACTION

1. This is a civil action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 256 and 35 U.S.C. § 271 *et seq.*, to correct inventorship of issued United States patents and to prevent and enjoin Defendants from infringing and profiting, in an illegal and unauthorized manner, from United States Patent No. 10,533,300 ("the '300 Patent"), which is attached hereto as Exhibit 1, and to recover damages, attorney's fees, and costs. This is also an action against Defendant JDCFC for its violation of the Lanham Act, as Defendant's practices

constitute unfair competition and false advertising in violation of Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).

THE PARTIES

2. Plaintiff David's Dozer is a Florida corporation with its principal place of business at 9 E Lucy Street, Florida City, Florida 33034. Plaintiff Mr. Armas is an individual residing in Miami-Dade County, Florida.

3. Upon information and belief, Defendant Deere & Company is a corporation organized under the laws of Delaware, having a regular and established place of business at 12950 NW 17th Street, Miami, Florida 33182. Upon information and belief and according to the Florida Secretary of State's website, Deere & Company may be served with process c/o C T Corporation System, 1200 South Pine Island Road, Plantation, Florida 33324.

4. Upon information and belief, Defendant JDCFC is a corporation organized under the laws of Delaware, having a regular and established place of business at 12950 NW 17th Street, Miami, Florida 33182. Upon information and belief and according to the Florida Secretary of State's website, JDCFC may be served with process c/o C T Corporation System, 1200 South Pine Island Road, Plantation, Florida 33324.

5. Upon information and belief, Defendant Dobbs is a limited liability company organized under the laws of Delaware, having a regular and established place of business at 4343 NW 77th Ave., Miami, Florida 33166. Upon information and belief and according to the Florida Secretary of State's website, Dobbs may be served with process c/o Registered Agent Solutions, Inc., 2894 Remington Green Lane, Suite A, Tallahassee, Florida 32308.

6. Upon information and belief, Defendant Everglades is a corporation organized under the laws of Florida, having a regular and established place of business at 138 Professional

Way, Wellington, Florida 33414. Upon information and belief and according to the Florida Secretary of State's website, Everglades may be served with process c/o Michael L. Schlechter, 138 Professional Way, Wellington, Florida 33414.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in this forum state and in this Judicial District; and (iii) being physically located in this District. Moreover, this Court has personal jurisdiction over Defendants because, upon information and belief, Defendants have committed acts of infringement within the forum state and based on systematic and continuous contact with the forum state.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §1400(b) because Defendants each have a regular and established place of business in this District and an act of infringement has occurred in this District. Venue is also proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because substantial part of the events or omissions giving rise to the claim occurred in this judicial district, and because this Court has personal jurisdiction over Defendants.

THE PATENT-IN-SUIT

10. The '300 Patent was duly and legally issued on January 14, 2020, by the United States Patent and Trademark Office ("USPTO") to Mr. Armas. The '300 Patent is entitled

“Automatic Grader Stabilizer.” Plaintiff David’s Dozer is the owner by assignment of all rights, title, and interest in the ’300 Patent.

BACKGROUND

11. Plaintiff Mr. Armas, the sole inventor named in the ’300 Patent, has been involved in the earth grading business since the 1990s. From the outset, Mr. Armas set about developing grading technology (*e.g.*, technology that can be used to level surfaces to create a proper foundation) to fit onto machinery acquired by him, which naturally led him to start his own grading business under the corporate name International Fine Grade Corp. (“IFG”). IFG evolved into David’s Dozer, which today is a respected company that manufactures and sells the patented V-Loc System.

12. The V-Loc System is comprised of three main components: the V-Loc blade with stabilizing brackets, the V-Hydra valve assembly, and the V-Lectral X2 electronic module. Combined, these components, when used together with a compact track loader (“CTL”), create a complete, state-of-the-art grading solution.

13. The USPTO awarded Mr. Armas his first patent directed to grading technology in 2012. Since then, Mr. Armas has been awarded many more patents within the grading field. David’s Dozer, a company founded by Mr. Armas, has continued to perform research and development on the grading solutions conceived by Mr. Armas.

14. Mr. Armas has spent years working with CTL’s, conducting research and development, and creating new grading systems. In January of 2018, Mr. Armas exhibited his V-Loc System with Topcon Positioning Systems, Inc.’s (“Topcon’s”) Mastless GPS Technology (a GPS based system for controlling the blade of a dozer to improve grade control performance) at the 2018 World of Concrete Convention in Las Vegas, Nevada. The GPS “mast-less” systems use

receivers on the top of the cab of a dozer and various combinations of sensors and gyroscopes to orient the position of a dozer's blade.

15. During this convention, Mr. Armas was invited to participate in roadshows, planned by Topcon during the year, to display the newest Topcon machine control technology running with Plaintiff's V-Loc System. Initially, Topcon and its authorized dealer, Ozark Laser and Shoring ("Ozark"), asked Mr. Armas to install the V-Loc System on a Bobcat CTL. However, just before the August 2018 Topcon Roadshow in Oklahoma City, Oklahoma, Topcon and Ozark installed the V-Loc System on a CTL manufactured by Defendant JDCFC.

16. In order to properly install and calibrate the V-Loc System on the JDCFC CTL, Mr. Armas had to utilize the method covered by the '300 Patent. More specifically, the V-Loc System that was installed onto the JDCFC CTL, was calibrated so the Topcon GPS system would control the pitch cylinders on the CTL while the CTL's boom was kept on the stops by hydraulically disconnecting and plugging the boom lift cylinders. A prominent innovation behind both the V-Loc System and the claims of the '300 Patent is the foregoing concept of hydraulically restricting the vehicle's boom arm while the user is hydraulically operating an attachment to the vehicle, such as a dozer blade.

17. Knowing that Topcon was collaborating with JDCFC to build and install mastless GPS systems for JDCFC, Mr. Armas was hesitant to disclose the method covered by the '300 Patent to Topcon. Therefore, on August 4, 2018, in an abundance of caution, Mr. Armas filed a patent application for the method involving a dozer blade attachment, a CTL, and an automatic grade control system, in which the automatic grade control system controls the pitch cylinders on the CTL while the boom is resting on the stops at the boom's lower limit of movement and is

restricted from coming off the stops. That application matured into the '300 Patent which was granted on January 14, 2020.

18. A few months after Mr. Armas demonstrated the V-Loc System at the August 2018 Topcon Roadshow, Defendant Deere & Company filed several patent applications, all of which disclosed systems and methods for restricting a boom arm on a work vehicle, such as a CTL, when the vehicle is also hydraulically coupled to an attachment such as a dozer blade. Specifically, the following patents (that Plaintiff is presently aware of) were all filed on December 7, 2018, approximately four months after Plaintiff's V-Loc System was demonstrated to representatives of Defendant Deere & Company:

U.S. Patent Number	Relevant Disclosure
11,028,557	<p>A boom lock is coupled to at least one of the frame and the boom assembly. The boom lock is configured to move from an unlocked position where the boom assembly is moveable to a locked position where the boom assembly is locked to the frame in a lowered position when the attachment identification signal indicates the dozer blade. Col. 2, ln. 57-63;</p> <p>8. The work vehicle of claim 1, further comprising a boom lock coupled to at least one of the frame and the boom assembly, the boom lock configured to move from an unlocked position where the boom assembly is moveable to a locked position where the boom assembly is locked to the frame in a lowered position when the attachment identification signal indicates that the attachment is a dozer blade. Col. 12, ln. 13-19.</p>
11,286,641	<p>In the present embodiment, for example, flow to or from the flow path of the pair of first hydraulic cylinders 200 may be inactivated wherein the pair of the first hydraulic cylinders 200 are neither extended nor retracted, such that the boom assembly 170 may rests on the mounting pads (although not required). The pair of boom arms 190, in other words, would be hydraulically locked. Col. 12, ln. 16-22;</p> <p>4. The system of claim 2, wherein the controller transmits a soft boom lock signal to inactivate a portion of the hydraulic system related to movement of the boom arms in one or more of raising or lowering the boom assembly. Col. 16, ln. 26-29.</p>

<p>10,975,547</p>	<p>A controller 465 may be coupled to the work vehicle 10. In dozer mode 120 (FIG. 2B), the controller 465 may be configured to receive an operator signal 470 from the operator interface 50, transmit a boom lower signal 475 to the hydraulic system 275 to lower the boom assembly 195 to the frame 15, and transmit a boom lock signal 480 to a hydraulic actuator 330 or an electronic actuator 335 of the boom lock 290 to move the boom lock 290 to the locked position 300 (FIGS. 5A, 5B, 5C) after the boom assembly 195 is lowered to the frame 15. Col. 6, ln. 9-19;</p> <p>3. The work vehicle of claim 1, further comprising a hydraulic system fluidly coupled to the at least one boom cylinder and the at least one tilt cylinder, the controller configured to control the hydraulic system to maintain the cutting edge on the cutting plane. Col. 9, ln. 59-63.</p>
<p>10,760,243</p>	<p>The boom arms 190 remain locked in a lowered position when the attachment 105 of the embodiments disclosed herein are coupled to the work machine 100. Locked in the lowered position may include one or more of a hydraulic lock and a mechanical lock. Col. 8, ln. 55-59;</p> <p>4. The work machine of claim 1, wherein the boom arms remain locked in a lowered position. Col. 10, ln. 33-34.</p>

19. The '300 Patent was cited during the prosecution of each of the foregoing patents, thus confirming that Defendants Deere and Company and JDCFC were well aware of the advantages taught by the '300 Patent, namely, the ability to hydraulically lock the vehicle's boom arm in a downward position when manipulating a front-end attachment to the vehicle.

20. In 2020, after collaborating with Topcon to develop a mastless GPS system compatible with a CTL, Defendant JDCFC introduced the 333G SmartGrade™ Compact Track Loader ("333G") and John Deere SmartGrade six-way dozer blade attachment ("SG96"). One of the prominent features of the 333G is the vehicle's "Dozer Mode." When in Dozer Mode, an attachment coupled to the vehicle, such as a dozer blade, can be controlled with automated precision with the assistance of the vehicle's GPS system. The ability to automatically control the vehicle's attachment with precision is possible because, when the vehicle is in Dozer Mode, the

hydraulics which control the vehicle's boom arm are restricted such that the boom arm stays and remains in a lowered position.

21. Defendant Deere & Company markets the 333G on its website, *see*, <https://www.deere.com/en/loaders/compact-track-loaders/333g-compact-track-loader/>. Deere & Company's website also provides a link for a brochure that touts the advantages of the 333G's SmartGrade and Dozer Mode functions as follows:

The first CTL to feature fully integrated 3D-grade-control technology, the 333G SmartGrade includes our operator-friendly DozerMode control system. Pushing a button on the sealed switch module switches to the EH control pattern to enable intuitive crawler operation. Deere-designed and -built six-way SG96 Dozer Blade is tough enough to cut grade but can also smoothly spread or precisely fine-grade materials.

22. On October 16, 2020, Defendant JDCFC's "product marketing manager," Gregg Zupancic, appeared on the podcast, "The Dirt," to discuss the advantages of the 333G. During the podcast, Defendant JDCFC's product marketing manager specifically touted the advantages of the 333G's Dozer Mode as follows:

[The 333G] enables some software that keeps the dozer blade down on the frame of the machine. If the blade somehow lifts up, the machine while you are in Dozer Mode, senses that the blade is coming off the grade and it will automatically push the blade down and that's important because in order to cut a ridged grade, a very smooth and accurate grade, you can't have that boom coming off the frame of the machine, the stops.... So the machine is automatically sensing when the elevation is coming up inadvertently just under load, and is making sure that [blade] is staying down onto the grade at all times, hydraulically. Now when you pull back [the vehicle's joystick] in Dozer Mode, instead of lifting the linkage, you're actually creating the elevation of the bucket or the dozer blade. And that keeps the boom on the stops, you get that rigidity....

23. At the 2020 ConExpo construction trade show, Defendant JDCFC's product marketing manager, Mr. Zupancic gave another interview wherein he once again touted the 333G's Dozer Mode capabilities:

For example, if you take a skid steer control and you pull back to get your elevation, your height of the attachment, the boom comes up and then your blade is no longer in the grading position. So we don't want that, we want to keep our boom down on the stops so that when you're pushing the draft load is going through the frame, its very rigid. If you come off those stops, raise it up for elevation off the stops with a skid steer control pattern, there is a lot of linkage and bushings and pivots that become very "squishy" and you lose some of you're accuracy when its up high like that. So with Dozer Mode, we electronically can read the elevation and we know when the blade is wanting to come up off the stops under heavy load, and we can pulse hydraulics to keep that down and push it down and keep it down so you get a nice smooth grade

24. In each of the foregoing interviews, Defendant JDCFC's product marketing manager, Mr. Zupancic, publicly advertised that a significant advantage of the 333G was the ability to hydraulically lock the vehicle's boom arm to the frame of the vehicle when in Dozer Mode, thus allowing for a precise and accurate grading function.

25. On or about October 9, 2020, after discovering Defendant JDCFC's 333G and incorporated Dozer Mode feature, Plaintiff sent Defendant Deere & Company a cease and desist letter that set forth in detail how each and every element of the '300 Patent's independent claim 1 and dependent claim 2 is practiced by the 333G when the vehicle is operating in Dozer Mode. Plaintiff's October 9, 2020 letter also included excerpts from Mr. Zupancic's 2020 ConExpo interview where he expressly stated that the boom arm is maintained in a downward position in Dozer Mode through manipulation of the vehicle's hydraulics.

26. On December 1, 2020, Defendant Deere & Company's Senior Intellectual Property Counsel, Joshua C. Heitsman, responded to Plaintiff's October 9, 2020 letter by informing Plaintiff that, contrary to Mr. Zupancic's interview, "Deer products do not pulse hydraulics, and Deere does not instruct Deere customers to pulse hydraulics.... However, if a Deere customer were to pulse hydraulics that would not be 'restricting the ability of a hydraulic' as required by the claim."

27. In 2023, Plaintiff purchased a 333G from one of Defendant Dobbs' South Florida locations. Prior to purchasing the 333G from Dobbs, Mr. Armas received a quote from Defendant Everglades for the purchase of a 333G CTL but opted not to purchase the CTL from Everglades due to their extended lead time for the SmartGrade™ kit. Upon information and belief, Defendants Dobbs and Everglades are licensed and authorized dealerships of Defendant JDCFC. Defendants Dobbs and Everglades each offer the 333G and SG96 for sale throughout locations in Florida, including but not limited to locations in this District. Upon information and belief, Defendants Dobbs and Everglades use the 333G and SG96 in a manner that infringes the '300 Patent by at least demonstrating the CTL's automated control features to customers and potential customers.

28. By purchasing the 333G from Defendant Dobbs, Plaintiffs further confirmed that the 333G practices all elements of the '300 Patent's independent claim 1 and dependent claim 2. Specifically, Plaintiffs measured the voltage level in the hydraulics controlling the boom arm when the vehicle was in Dozer Mode. Through this test, Plaintiffs confirmed that, while the vehicle's boom arm is lowered onto the stops and the GPS is enabled (*i.e.*, the 333G is operating in Dozer Mode), when the joystick is pulled back there is no voltage measured in the boom arm hydraulics until the dozer blade is elevated to a specific height, at which point a voltage measurement is discernable in the boom arm's hydraulics thus causing the boom to lift, and importantly, disconnecting the operation of the vehicle's blade from the 333G's GPS system. The foregoing test confirmed that, when the 333G is operating in Dozer Mode with automated GPS control, the hydraulics controlling the boom arm are indeed restricted.

29. In view of the foregoing, there are only two possible scenarios relating to the operation of the 333G's boom arm while the vehicle is in Dozer Mode: 1) Mr. Heitsman's December 1, 2020 assessment is incorrect because the hydraulics to the vehicle's boom arm are

restricted; or 2) Mr. Zupancic is repeatedly and publicly touting a significant advantage that the 333G does not exhibit in direct competition with Plaintiff's V-Loc System.

30. Defendants' past and continuous use, display, marketing, promoting, exporting, offering for sale, and or selling of the 333G and SG96 constitutes a deliberate and willful intent to infringe upon the '300 Patent, without Plaintiff David's Dozer's license, consent, or authorization. As a result, Plaintiff David's Dozer has suffered irreparable harm and has no adequate remedy at law.

31. As a direct result of the unauthorized sale of the 333G and SG96, Plaintiff David's Dozer has lost customers and potential customers of its V-Loc system throughout the United States, including but not limited to customers in Florida and in this District.

COUNT I – DIRECT INFRINGEMENT OF U.S. PATENT NO. 10,533,300
(As to Defendants JDCFC, Dobbs, and Everglades)

32. The allegations set forth in the foregoing paragraphs 1 through 31 are incorporated into Count I of the Complaint.

33. The '300 Patent discloses and claims a method of stabilizing skid steer vehicles used to grade earth using a dozer blade in conjunction with GPS automatic grade control equipment.

34. Defendants JDCFC, Dobbs, and Everglades have and continue to directly infringe, either literally and/or under the doctrine of equivalents, at least claims 1 and 2 of the '300 Patent under 35 U.S.C. §271(a) by using, at least through internal testing or otherwise, the John Deere 333G SmartGrade™ Compact Track Loader ("333G") and John Deere SmartGrade six-way dozer blade attachment ("SG96") (wherein the 333G and SG96 are referred to collectively as the "Infringing Instrumentalities"). Claim charts detailing JDCFC's, Dobbs', and Everglades' infringement of at least claims 1 and 2 of the '300 Patent are attached hereto as Exhibit 2. These

charts demonstrate that, when operating the 333G in Dozer Mode, these Defendants infringe every step of the method claimed in claims 1 and 2 of the '300 Patent.

35. Defendants JDCFC, Dobbs, and Everglades directly infringe at least claims 1 and 2 of the '300 Patent by using and/or testing the Infringing Instrumentalities to provide positive reviews to solicit sales of the Infringing Instrumentalities with the goal of offering them for sale. End purchasers or customers of Defendants JDCFC, Dobbs, and Everglades also commit infringement of at least claims 1 and 2 of the '300 Patent when they purchase the Infringing Instrumentalities and once they begin to operate the Infringement Instrumentalities.

36. David's Dozer has been and continues to be damaged by Defendants JDCFC's, Dobbs', and Everglades' infringement of the '300 Patent. The injury to David's Dozer is irreparable and will continue unless and until Defendants JDCFC, Dobbs, and Everglades are enjoined from further infringement.

37. This case is exceptional, and David's Dozer is entitled to an award of attorneys' fees under 35 U.S.C. § 285.

COUNT II – INDIRECT INFRINGEMENT OF U.S. PATENT NO. 10,533,300
IN VIOLATION OF 35 U.S.C. § 271(b)
(As to the Deere Defendants)

38. The allegations set forth in the foregoing paragraphs 1 through 31 are incorporated into Count II of the Complaint.

39. The '300 Patent discloses and claims a method of stabilizing skid steer vehicles used to grade earth using a dozer blade in conjunction with GPS automatic grade control equipment.

40. Upon issuance of the '300 Patent, David's Dozer notified Defendant Deere & Company and JDCFC (collectively, the "Deere Defendants") of its patent infringement by letters

dated April 22, 2020, and October 9, 2020. Despite the Deere Defendants' awareness of the '300 Patent and its infringement, the Deere Defendants have and continue to indirectly infringe at least claims 1 and 2 of the '300 Patent by actively and knowingly inducing infringement of at least claims 1 and 2 of the '300 patent, in violation of 35 U.S.C. §271(b). The Deere Defendants' customers and end-users of the John Deere 333G SmartGrade™ Compact Track Loader ("333G") and John Deere SmartGrade six-way dozer blade attachment ("SG96") (wherein the 333G and SG96 are referred to collectively as the "Infringing Instrumentalities") directly infringe at least claims 1 and 2 of the '300 Patent, at least by using the Infringing Instrumentalities, as described in Exhibit 2. The Deere Defendants knowingly induce infringement of at least claims 1 and 2 of the '300 Patent by encouraging their customers, potential customers, and end-users of the Infringing Instrumentalities with knowledge and specific intent to induce infringement, and/or with willful blindness to the possibility that their acts induce infringement. The Deere Defendants induce infringement through activities relating to selling, marketing, advertising, promotion, support, and distribution of the Infringing Instrumentalities in the United States. For example, the Deere Defendants instruct customers and end-users at least through marketing, promotional, and instructional materials, including manuals and video instructions, to use the Infringing Instrumentalities, as shown in Exhibits 3 and 4. *See also* links to videos identified in Exhibit 2.

41. David's Dozer has been and continues to be damaged by the Deere Defendants' indirect infringement of the '300 Patent. The injury to David's Dozer is irreparable and will continue unless and until the Deere Defendants are enjoined from further infringement.

42. This case is exceptional, and David's Dozer is entitled to an award of attorneys' fees under 35 U.S.C. § 285.

COUNT III – INDIRECT INFRINGEMENT OF U.S. PATENT NO. 10,533,300
IN VIOLATION OF 35 U.S.C. § 271(c)

(As to Defendant JDCFC)

43. The allegations set forth in the foregoing paragraphs 1 through 31 are incorporated into Count III of the Complaint.

44. The '300 Patent discloses and claims a method of stabilizing skid steer vehicles used to grade earth using a dozer blade in conjunction with GPS automatic grade control equipment.

45. Defendant JDCFC contributes and is contributing to infringement of at least claims 1 and 2 of the '300 Patent, in violation of 35 U.S.C. §271(c). Defendants JDCFC's customers, potential customers, and end-users of the John Deere 333G SmartGrade™ Compact Track Loader ("333G") and John Deere SmartGrade six-way dozer blade attachment ("SG96") (wherein the 333G and SG96 are referred to collectively as the "Infringing Instrumentalities") directly infringe at least claims 1 and 2 of the '300 Patent, at least by using the Infringing Instrumentalities, as described in detail in Exhibit 2. Defendant JDCFC contributes to infringement of the '300 Patent by offering to sell, selling, and/or importing into the United States the Infringing Instrumentalities and components thereof. Such components are substantial, material parts of the claimed inventions of the '300 Patent and have no substantial non-infringing use. Plaintiff notified JDCFC that the Infringing Instrumentalities were especially adapted to infringe the '300 Patent by containing Dozer Mode, and JDCFC continued, and continues, to sell the Infringing Instrumentalities. The Infringing Instrumentalities are not staple articles or commodities of commerce suitable for substantial non-infringing use.

46. David's Dozer has been and continues to be damaged by the Deere Defendants' indirect infringement of the '300 Patent. The injury to David's Dozer is irreparable and will continue unless and until the Deere Defendants are enjoined from further infringement.

47. This case is exceptional, and David's Dozer is entitled to an award of attorneys' fees under 35 U.S.C. § 285.

**COUNT IV – FALSE AND MISLEADING ADVERTISING
AND PROMOTION IN VIOLATION OF 15 U.S.C. § 1125(a)(1)(B)**
(As to Defendant JDCFC)

48. The allegations set forth in the foregoing paragraphs 1 through 31 are incorporated into Count IV of the Complaint.

49. This Count is pled in the alternative to Count I for patent infringement.

50. Defendant JDCFC's practices, as described in this Complaint, constitute unfair competition and false advertising in violation of Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).

51. Defendant JDCFC and Plaintiff David's Dozer are direct competitors with one another, each competing for the same customers through the promotion and sales of competing products in the field of grading technology and related machinery. Defendant JDCFC's manufacture, use, sale, and offer to sell the 333G and SG96 requires the products to travel in interstate commerce.

52. Defendant JDCFC has violated the Lanham Act by using false or misleading descriptions of fact and false or misleading representations of fact in its commercial advertising or promotion that misrepresent the nature, characteristics, and/or qualities of Defendant JDCFC's business practices and products, as set forth above.

53. Defendant JDCFC has also engaged in other false or misleading advertising and promotion intended to assure consumers that Defendant JDCFC's practices are lawful. Upon information and belief, Defendant JDCFC states and mislead consumers into believing that the 333G's boom arm is hydraulically restricted in a lowered position when the vehicle is operating in

Dozer Mode thereby allowing the vehicle to automatically provide a precise and accurate dozer grading function.

54. In its December 1, 2020 letter, Defendant JDCFC contended that it did not infringe the '300 Patent because the 333G does not restrict the ability of a hydraulic as claimed in the '300 Patent. This position is irreconcilable with its promotion and advertising of the 333G and its Dozer Mode feature. Thus, either Defendant JDCFC infringes the '300 Patent or, in the alternative, Defendant JDCFC is liable for its intentional false or misleading advertising and promotion.

55. The above-described acts of Defendant JDCFC, if not enjoined by this Court, are likely to materially deceive members of the general public including customers and potential customers of the parties by influencing the purchasing decisions of these customers and potential customers.

56. The above-described acts of Defendant JDCFC have irreparably harmed and, if not enjoined, will continue to irreparably harm David's Dozer.

57. The above-described acts of Defendant JDCFC have irreparably harmed and, if not enjoined, will continue to irreparably harm the interest of the public in being free from confusion, mistake, and deception.

58. By reason of Defendant JDCFC's acts as alleged above, David's Dozer has suffered and will continue to suffer injuries, including injury to David's Dozer's business reputation, related declining sales, or loss of goodwill. However, David's Dozer's remedies at law are not adequate to compensate for all the injuries inflicted by Defendant JDCFC.

59. Accordingly, Plaintiff David's Dozer is entitled to entry of injunctive relief requiring Defendant JDCFC to cease its false and misleading advertising and promotion and unfair competitive practices.

COUNT V – DECLARATORY JUDGMENT
CORRECTION OF INVENTORSHIP UNDER 35 U.S.C. § 256
(As to Defendant Deere & Company)

60. The allegations set forth in the foregoing paragraphs 1 through 31 are incorporated into Count V of the Complaint.

61. U.S. Patent Nos. 11,028,557, 11,286,641, 10,975,547, 10,760,243 (collectively, the “Deere Patents”) contain claims directed to the restriction of a boom arm on a working vehicle necessary for patentability that originated from Plaintiff, David Armas.

62. The Deere Patents fail to list Armas as a joint inventor.

63. Mr. Armas substantially contributed to the conception and reduction to practice of significant features of the inventions recited in one or more claims of the Deere Patents. Mr. Armas is rightfully a joint inventor of the claimed features of one or more claims of the Deere Patents. Mr. Armas collaborated with the inventors of the Deere Patents by engineering and calibrating a John Deere CTL, at third-party Topcon’s request. This contribution was not insignificant in quality.

64. The omissions of Mr. Armas as a joint inventor of the Deere Patents was done without any deceptive intent on the part of Mr. Armas.

65. Mr. Armas respectfully requests this Court to enter a declaratory judgment declaring Armas a joint inventor of the Deere Patents, and issue an order directing the Director of the United States Patent and Trademark Office to add Armas as a joint inventor of the Deere Patents.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief and judgment against Defendants as follows:

- A. An adjudication and declaration that Defendants JDCFC, Dobbs, and Everglades have infringed one or more claims of the '300 Patent;
- B. That Defendants Deere & Company and JDCFC have actively induced others to infringe one or more claims of the '300 Patent;
- C. That Defendant JDCFC has contributorily infringed one or more claims of the '300 Patent;
- D. A permanent injunction against Defendants and their respective officers, directors, employees, agents, consultants, contractors, suppliers, distributors, all parent and subsidiary entities, all assignees and successors in interest, and all others acting in concert or privity with Defendants, from further infringement of the '300 Patent;
- E. An award of enhanced damages pursuant to 35 U.S.C. § 284 for Defendant Deere & Company's and JDCFC's willful infringement;
- F. A declaration that this case is exceptional under 35 U.S.C. §285, and an award of reasonable attorneys' fees;
- G. A declaration that Plaintiff Mr. Armas is a joint inventor of the Deere Patents;
- H. A permanent injunction against Defendant JDCFC and its officers, directors, employees, agents, consultants, contractors, suppliers, distributors, all parent and subsidiary entities, all assignees and successors in interest, and all others acting in concert or privity with JDCFC, from further falsely advertising features of the 333G that are not exhibited by the vehicle;
- I. An award of damages pursuant to 15 U.S.C. § 1117 for Defendant JDCFC's false advertising and misleading promotion in violation of 15 U.S.C. § 1125;

J. Judgment against Defendants in favor of Plaintiffs on all counts of this Complaint;
and

K. An award to Plaintiffs of such further relief at law or in equity as the Court deems
just and proper.

DATED: March 29, 2024

Respectfully submitted,

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