

Gary L. Eastman, Esq., APLC (CSB #182518)  
401 West A Street, Suite 1785  
San Diego, CA 92101  
Tel: (619) 230-1144  
Fax: (619) 230-1194

Attorney for Plaintiff Aldila Golf, Corp.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT

<p>ALDILA GOLF CORP., a Delaware Corporation</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>JAS. D. EASTON, INC., a Delaware Corporation, EASTON TECHNICAL PRODUCTS, INC., a Utah Corporation, and DOES 1-20</p> <p style="text-align: center;">Defendants.</p>	<p>Case No.: <u>'11CV1574 WQHBLM</u></p> <p><b>COMPLAINT FOR DECLARATORY RELIEF RE:</b></p> <p><b>(1) NON PATENT INFRINGEMENT;</b> <b>(2) INVALIDITY OF PATENT;</b> <b>(3) UNFAIR COMPETITION UNDER STATE LAW; AND</b></p> <p><b>[JURY TRIAL DEMANDED]</b></p> <p><b>(35 U.S.C. §§ 1, 101, 102, 103, 112, 119, 229, 292; 28 U.S.C. §§ 1331, 1332, 1338, 1367, 2201, 2202; California Business and Professions Code §§ 17200 et. seq.)</b></p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Comes now the Plaintiff ALDILA GOLF CORP. (hereinafter referred to as "Aldila") and for its Complaint alleges as follows:

**THE PARTIES**

1. Plaintiff ALDILA GOLF CORP. is a corporation duly organized and at all times relevant hereto in good standing under the laws of the State of Delaware, qualified to do business in California, with its principal place of business at 14145 Danielson Street, Suite B, Poway, California, 92064-6860, within the Southern District of California.



1           10.     On February 24, 2011, the counsel for Jas D. Easton and Easton sent Aldila a  
2 letter alleging that Plaintiff's Victory Archery Penetrator ("VAP") Arrows infringes one or  
3 more claims protection of their five (5) patents. A true copy of said letter is attached here to as  
4 Exhibit F.

5           11.     Asserting a patent and essentially demanding that Aldila discontinue selling a  
6 product is unfair competition because Jas. D. Easton or Easton knew or should have known the  
7 patents to be invalid or not infringed is unfair competition because it discourages the  
8 manufacture and sale of a competitive product including Aldila's "Victory Archery Penetrator"  
9 ("VAP") Arrows. The statements are injurious to Aldila's relationships with its customers and  
10 injurious to Aldila's commercial reputation and therefore constitute Unfair Competition.

11           12.     Based upon the allegations by Defendants, and upon the prior exchange of  
12 correspondence, there is an actual controversy within the meaning of 28 U.S.C. § 2201 for  
13 purposes of this declaratory judgment action. Aldila has an objectively reasonable apprehension  
14 that it will face an infringement suit by Jas. D. Easton and/or Easton regarding Defendants' five  
15 (5) patents, if Plaintiff continues to sell its accused "VAP" arrows.

16           13.     Due to the effect that Defendants' representations were having on Aldila's  
17 business, Aldila had to commission a search and study of patents that are owned by Defendants  
18 or which may be owned by Defendants. As a result of this study, Aldila believes that Aldila's  
19 products do not infringe any of Defendants' patents and that at least those five (5) patents  
20 asserted are invalid for reasons that Defendants knew or should have known.

21           14.     Aldila has been harmed and will continue to be harmed if it is forced to proceed  
22 with its business without a clear declaration of its non-infringement and the invalidity of  
23 Defendants' five (5) patents. Potential damages will continue to accrue, and Aldila will thereby  
24 be subjected to uncertainty and insecurity. As Aldila is anxious to resolve this dispute, it is  
25 filing this current action.

1 **FIRST CAUSE OF ACTION**

2 Declaratory Judgment re Non-Infringement of Defendants' Five (5) Patents

3 15. Aldila hereby incorporates the allegations of Paragraphs 1 through 15 above as  
4 set forth and re-alleges them in full herein.

5  
6 16. Aldila's "VAP" arrows do not infringe Defendants' five (5) patents as  
7 hereinabove alleged, under U.S.C. § 271 for reasons, including the reason that Defendants'  
8 patents do not incorporate any claims directed to protectable features.

9 17. Aldila's sale and offer for sale of its "VAP" arrows does not constitute patent  
10 infringement under Federal Law.

11 18. Aldila is entitled to a judgment declaring that its "VAP" products do not infringe  
12 Defendants' five (5) patents or otherwise infringe any of the rights of any of the Defendants in  
13 the patents listed in Exhibit A-E.

14 **SECOND CAUSE OF ACTION**

15 Declaratory Judgment re Invalidity of the Claims of Defendants' Five (5) Patents

16 19. Aldila hereby incorporates the allegations of Paragraphs 1 through 19 above as if  
17 set forth and re-alleged in full herein.

18  
19 20. Defendants' five (5) patents are invalid for failure to satisfy the statutory criteria  
20 for patentability under 35 U.S.C. §§ 101, 102, 103, 112, AND 119.

21 **THIRD CAUSE OF ACTION**

22 Unfair Competition and Unfair Trade Practices

23  
24 21. Aldila hereby incorporates the allegations of Paragraphs 1 through 21 above as if  
25 set forth and re-alleged in full herein.

26 22. Aldila's conduct is alleging and implying that Aldila infringes Defendants' five  
27 (5) patents, as set forth in its letter of February 24, 2011 (Exhibit E), constitutes unfair  
28 competition and unfair trade practices in violation of California Business and Profession Code

1 Section 17200 *et seq.*, which is demonstrably untrue and Defendants know or should have know  
2 that the statements were untrue. There is a strong public interest in protecting Aldila from  
3 Defendants' unfair competition and unfair trade practices.

4 23. Aldila is entitled to recover any and all damages permitted under California  
5 Business and Professions Code Section 17200 *et seq.*, including attorney's fees, punitive  
6 damages, and costs from Aldila for Defendants' willful, knowing misconduct as well as  
7 injunctive relief against Defendants' continued unfair competition and unfair trade practices.

8 **PRAYER FOR RELIEF**

9  
10 WHEREFORE, Plaintiff Aldila prays that this Court enter judgment as follows:

11 (a) Declaring that Aldila's "VAP" products do not infringe Defendants' patent  
12 numbers: 7,004,859; 7,115,055; 7,270,618; 7,374,504; and 7,608,001 under 35 U.S.C. § 271;

13 (b) Declaring that Defendants' patent numbers: 7,004,859; 7,115,055; 7,270,618;  
14 7,374,504; and 7,608,001 are invalid;

15 (c) Declaring that the sale and offer for sale of Aldila's products do not constitute  
16 unfair competition under Federal law;

17 (d) Declaring that Defendants' conduct constitutes unfair competition and unfair  
18 trade practices in violation of California Business and Professions Code Section 17200 *et seq.*;

19 (e) Granting preliminary and permanent injunctions to stop Defendants' threats and  
20 unfair competition and trade practices;

21 (f) Awarding Aldila its actual damages to be proven at trial;

22 (g) Declaring this to be an exceptional case and awarding Aldila its reasonable  
23 attorney's fees under 35 U.S.C. § 285;

24 (h) Awarding Aldila its reasonable attorney's fees under California Business and  
25 Professions Code Section 17200 *et seq.*; and  
26  
27  
28

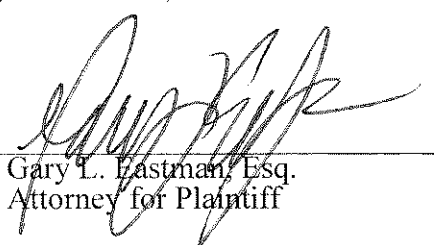
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(i) Granting Aldila such other further equitable and legal relief as the Court may deem proper.

Respectfully submitted,

Dated: March 18, 2011 \_\_\_\_\_

Gary L. Eastman, APLC

By  \_\_\_\_\_  
Gary L. Eastman, Esq.  
Attorney for Plaintiff

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**REQUEST FOR JURY TRIAL**


Pursuant to F.R.Civ. P. 38(b) and Southern District Civil Local Rule 38.1, Plaintiff

Aldila hereby demands its right to a jury trial on all issues triable to a jury.

Dated: March 18, 2011 \_\_\_\_\_

Gary L. Eastman, APLC

By\_

  
\_\_\_\_\_  
Gary L. Eastman, Esq.  
Attorney for Plaintiff