

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

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Attorneys for Plaintiff Internal Combustion Solutions LLC

INTERNAL COMBUSTION SOLUTIONS LLC,

Plaintiff,

v.

HARLEY DAVIDSON, INC.,

Defendant.

Case No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff Internal Combustion Solutions LLC (hereinafter referred to as “Plaintiff” or “Internal Combustion Solutions”) demands a jury trial and complains against the defendant as follows:

THE PARTIES

1. Internal Combustion Solutions is a limited liability company organized and existing under the laws of the State of New Jersey, having a place of business at 208 West State Street, Trenton, New Jersey 08608.

2. Upon information and belief, Harley Davidson, Inc. (hereinafter referred to as “Defendant” or “Harley Davidson”) is a corporation organized and existing under the laws of the State of Wisconsin, having a place of business at 3700 West Juneau Avenue, Milwaukee, Wisconsin 53208.

1 **JURISDICTION AND VENUE**

2 3. This action arises under the patent laws of the United States of America, Title 35 of
3 the United States Code. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and
4 1338(a).

5 4. On information and belief, Defendant is doing business and committing
6 infringements in this judicial district and are subject to personal jurisdiction in this judicial district.

7 5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

8 **CLAIM FOR PATENT INFRINGEMENT**

9 6. Plaintiff Internal Combustion Solutions repeats and incorporates herein the entirety
10 of the allegations contained in paragraphs 1 through 5 above.

11 7. On May 6, 2003, U.S. Patent No. 6,560,528 (hereinafter referred to as “the ‘528
12 patent”) was duly and legally issued to Ronald D. Gitlin, Darren O’Connor and Randy A. Gietzen
13 for an invention entitled “Programmable Internal Combustion Engine Controller”. The ‘528 patent
14 was assigned to Internal Combustion Technologies, Inc. which granted a worldwide exclusive
15 license to Internal Combustion Solutions to enforce the ‘528 patent. A copy of the ‘528 patent is
16 attached to this Complaint as Exhibit 1.

17 8. Internal Combustion Solutions is the owner of all right, title and interest in and to
18 the ‘528 patent.

19 **COUNT ONE**

20 9. Plaintiff Internal Combustion Solutions repeats and incorporates herein the entirety
21 of the allegations contained in paragraphs 1 through 8 above.

22 10. Defendant Harley Davidson has and still is infringing, actively inducing the
23 infringement of and contributorily infringing in this judicial district, the ‘528 patent by, among
24 other things, making, using, offering to sell, selling and/or importing a programmable device that
25 enables a user to control an internal combustion engine pursuant to a claim of the ‘528 patent
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1 without permission from Internal Combustion Solutions and will continue to do so unless enjoined
2 by this Court.

3 11. Plaintiff has been damaged by such infringing activities by the Defendant of the
4 '528 patent and will be irreparably harmed unless such infringing activities are enjoined by this
5 Court.

6 **COUNT TWO**

7 12. Plaintiff Internal Combustion Solutions repeats and incorporates herein the entirety
8 of the allegations contained in paragraphs 1 through 11 above.

9 13. Defendant Harley Davidson's infringement has been willful and deliberate,
10 justifying the assessment of treble damages pursuant to 35 U.S.C. §284 and attorneys' fees pursuant
11 to 35 U.S.C. §285 against that entity.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff Internal Combustion Solutions prays for judgment against
14 Defendant Harley Davidson on all the counts and for the following relief:

15 A. Declaration that the Plaintiff is the owner of the '528 patent, and that the Plaintiff has
16 the right to sue and to recover for infringement thereof;

17 B. Declaration that the '528 patent is valid and enforceable;

18 C. Declaration that the Defendant has infringed, actively induced infringement of, and
19 contributorily infringed the '528 patent;

20 D. A preliminary and permanent injunction against the Defendant, each of its officers,
21 agents, servants, employees, and attorneys, all parent and subsidiary corporations, their assigns and
22 successors in interest, and those persons acting in active concert or participation with them,
23 including distributors and customers, enjoining them from continuing acts of infringement, active
24 inducement of infringement, and contributory infringement of Internal Combustion Solution's '528
25 patent;
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1 E. An accounting for damages under 35 U.S.C. §284 for infringement of the Plaintiff's
2 '528 patent by the Defendant and the award of damages so ascertained to the Plaintiff, Internal
3 Combustion Solutions, together with interest as provided by law;

4 F. A judgment that the Defendant is a willful infringer and an award of treble damages
5 to the Plaintiff pursuant to 35 U.S.C. §284 against the Defendant;

6 G. Award of reasonable attorney's fees to the Plaintiff pursuant to 35 U.S.C. §285;

7 H. Award of the Plaintiff's costs and expenses; and

8 I. Such other and further relief as this Court may deem proper, just and equitable.
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10 **DEMAND FOR JURY TRIAL**

11 Plaintiff Internal Combustion Solutions demands a trial by jury of all issues properly triable
12 by jury in this action.

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28 Dated: August 17, 2009
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