

JS 44  
(Rev. 3/99)

# ORIGINAL CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b> The Whistler Group, Inc.	<b>DEFENDANTS</b> Cobra Electronics Corporation  <div style="text-align: center; font-size: 2em; font-weight: bold;">3 03 CV - 0312 L</div>
<b>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF</b> Benton County, Arkansas (EXCEPT IN U.S. PLAINTIFF CASES)	<b>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT</b> Cook County, Illinois (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED
<b>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</b> David W. Carstens; Carstens, Yee & Cahoon, L.L.P.; PO Box 802334; Dallas, Texas 75380; (972) 367-2001	<b>ATTORNEYS (IF KNOWN)</b>  <div style="text-align: center; font-size: 2em; font-weight: bold;">FEB 12</div>

<b>II. BASIS OF JURISDICTION</b> (PLACE AN "X" IN ONE BOX ONLY)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)																
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">1</td> <td style="text-align: center;">4</td> <td style="text-align: center;">4</td> </tr> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;">2</td> <td style="text-align: center;">5</td> <td style="text-align: center;">5</td> </tr> <tr> <td style="text-align: center;">3</td> <td style="text-align: center;">3</td> <td style="text-align: center;">6</td> <td style="text-align: center;">6</td> </tr> </table> Citizen of This State Incorporated or Principal Place of Business In This State Citizen of Another State Incorporated and Principal Place of Business In Another State Citizen or Subject of a Foreign Country Foreign Nation	PTF	DEF	PTF	DEF	1	1	4	4	2	2	5	5	3	3	6	6
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IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)															
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES											
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**V. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding  
  2 Removed from State Court  
  3 Remanded from Appellate Court  
  4 Reinstated or Reopened  
  5 Transferred from another district (specify)  
  6 Multidistrict Litigation  
  7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

35 U.S.C. § 1, et seq. - Patent Infringement

**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint: JURY DEMAND:  YES  NO

Injunctive Relief and Damages

**VIII. RELATED CASE(S) IF ANY** (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

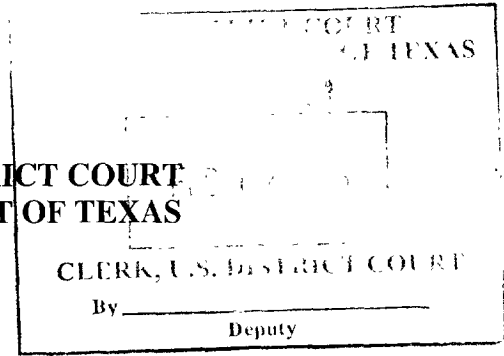
DATE February 12, 2003 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



THE WHISTLER GROUP, INC.,

Plaintiff,

v.

COBRA ELECTRONICS  
CORPORATION,

Defendant.

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CIVIL ACTION NO.

3 03 CV 0812 L

JURY TRIAL DEMANDED

**PLAINTIFF THE WHISTLER GROUP, INC.'S  
ORIGINAL COMPLAINT**

Plaintiff, The Whistler Group, Inc. ("Whistler" or "Plaintiff"), for its claims against Defendant, Cobra Electronics Corporation ("Cobra" or "Defendant") alleges as follows:

**I.**

**JURISDICTION AND VENUE**

1. Plaintiff, The Whistler Group, Inc., files this action against Defendant, Cobra Electronics Corporation, for patent infringement under the patent laws of the United States, 35 U.S.C. § 1, *et. seq.* This Court has subject matter jurisdiction over this patent infringement action under 28 U.S.C. §§ 1331 and 1338(a).

2. On information and belief, the Defendant regularly conducts business in this judicial district, has offered to sell, is presently selling, and has sold infringing products in this judicial district and is subject to personal jurisdiction in this judicial district.

3. Venue is proper under 28 U.S.C. §§ 1391 (b), (c) and 1400(b).

## II.

### **THE PARTIES**

4. Plaintiff, The Whistler Group, Inc., is a Texas corporation with its principal place of business at 13016 North Walton Boulevard, Bentonville, Arkansas 72712.

5. On information and belief, Defendant, Cobra Electronics Corporation, is a Delaware Corporation with its principal place of business at 6500 West Cortland Street, Chicago, Illinois 60707.

## III.

### **BACKGROUND**

6. On September 9, 1997, United States Patent No. 5,666,120 (the “‘120 Patent”) for a Detector Apparatus, issued to Chris R. Kline, Bruce A. Ricker, Hans A. Kvinlaug, Craig R. Autio, Subhash C. Sakar and Leonard J. Umina which has since been duly and legally assigned to The Whistler Group, Inc., who is the current and legal owner of all right, title and interest to the ‘120 Patent. A copy of the ‘120 Patent is attached as Exhibit A.

7. Whistler consistently has marked all of its applicable products with the ‘120 Patent, pursuant to 35 U.S.C. Section 287, on products incorporating the detection technology

disclosed in the '120 Patent. As a result, Defendant had knowledge of the '120 Patent since at least September 9, 1997.

#### IV.

#### **COUNT I -- PATENT INFRINGEMENT**

8. Plaintiffs reallege and incorporate by reference the allegations in Paragraphs 1-7.

9. On information and belief, during the term of the '120 Patent and without authority from Whistler, the Defendant has made, used, offered to sell and/or sold within the United States or has imported into the United States certain radar detector products especially designed for and intended to be used in infringing radar detector products. The Defendant's products that alone or in combination infringe one or more claims of the '120 Patent, include Defendant's radar detectors identified as Cobra Model Nos. ESD-6000, ESD-6500 and Cobra 9000 Series Model Nos. 9110, 9210, 9560 and 9860.

10. On information and belief, during the term of the '120 Patent and without authority from Whistler, the Defendant has actively induced others to directly infringe one or more claims of the '120 Patent. Specifically, the Defendant has actively encouraged others to combine accused products with each and every element of the detector apparatus claimed in the '120 Patent. Defendant intentionally has done so with knowledge of the '120 Patent, and therefore knew, or should have known, that it actively induced others to commit acts that constitute direct infringement of the '120 Patent.

11. On information and belief, during the term of the '120 Patent and without authority from Whistler, the Defendant has contributorily infringed one or more claims of the '120 Patent by offering to sell or selling within the United State or importing into the United States certain products, including Cobra radar detector Model Nos. ESD-6000 and ESD-6500 and Cobra 9000 Series Model Nos. 9110, 9210, 9560 and 9860, and/or related accessories. Such

products, which alone or in combination, comprise a component of a patented apparatus and/or method covered by one or more claims of the '120 Patent, is known by the Defendant to be especially made or especially adapted for use in an infringement of the '120 Patent, and are not staple articles or commodities of commerce suitable for substantial non-infringing uses.

12. On information and belief, Defendant has had actual knowledge of the '120 Patent since approximately its date of issue and has pursued its knowing and willful infringement thereof in flagrant disregard of Plaintiff's rights arising thereunder.

13. Defendant's infringement has caused Plaintiff to suffer damages and has caused and/or will cause Plaintiff to suffer irreparable injury for which Plaintiff has no adequate remedy at law. Because of Defendant's infringement, Plaintiff has been irreparably harmed and has suffered impairment of the value of its patent rights. Moreover, Plaintiff will continue to suffer irreparable harm unless Defendant is restrained from infringing the claims of the '120 Patent.

V.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Whistler prays that the Court enter judgment, as follows:

- A. That the Court declare the '120 Patent is valid, enforceable, and infringed by Defendant.
- B. That the Defendant and all of its officers, agents, affiliates, servants, employees, and attorneys, and all other persons in active concert or participation with them, be temporarily, preliminarily, and permanently enjoined from infringing, inducing infringement, and/or contributing to the infringement of the '120 Patent by importing, making, using, offering to sell, or selling products which embody the inventions claimed in said patent, or imitations thereof;

C. That Plaintiff be awarded under 35 U.S.C. Section 284, in an amount to be proved at trial, damages adequate to compensate it for Defendant's infringement of the '120 Patent;

D. That Plaintiff be awarded its costs and prejudgment interest on its damages, as provided for by 35 U.S.C. Section 284;

E. That the Court determine this action to be an exceptional case and award Plaintiff its reasonable attorney fees, as provided for by 35 U.S.C. Section 285;

F. That the Defendant be ordered to make a written report within a reasonable period, to be filed with the Court, detailing the manner of their compliance with the requested injunction; and,

G. That Plaintiff be granted such other and further relief as the Court determines is just and proper.

Dated: February 12, 2003

Respectfully submitted,



David W. Carstens

Texas Bar No. 03906900

Scott L. Harper

Texas Bar No. 00795038

Casey L. Griffith

Texas Bar No. 24036687

CARSTENS, YEE & CAHOON, L.L.P.

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Dallas, Texas 75240

(972) 367-2001; (972) 357-2002 (fax)

**Counsel for The Whistler Group, Inc.**