

FILED

APR 27 2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY [Signature]  
DEPUTY CLERK

CIBOLO SPRAYERS, INC.  
Plaintiffs

v.

GREEN PRO WEST, INCORPORATED  
D/B/A MOBILE SPRAY SYSTEMS, and  
HENNA CHEVROLET, L.P.,  
Defendants.

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Civil Action No. A05CA 290SS

**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff CIBOLO SPRAYERS, INC. ("Cibolo") files this Original Complaint against Defendants GREEN PRO WEST, INCORPORATED D/B/A MOBILE SPRAY SYSTEMS ("Mobile") and HENNA CHEVROLET, L.P. ("Henna").

**I. PARTIES JURISDICTION AND VENUE**

1. Plaintiff Cibolo is a Texas corporation with its principal place of business located at 1100 East 4<sup>th</sup> Street, Brady, Texas 76825.

2. Defendant Green Pro West, Incorporated d/b/a Mobile Spray Systems is a Utah corporation with its principal place of business located at 450 S. 300 E., Emery, Utah 84522-6705, that may be served with process by serving its Registered Agent, David J. Taylor, at that address.

3. Defendant Henna Chevrolet, L.P. is a Texas limited partnership with its principal place of business located at 8805 N. IH 35, Austin, Texas 78753, that may be served with process by serving its Registered Agent, Lewis M. Henna, Jr., at that address.

4. This is a patent infringement action arising out of the patent laws of the United States. This Court has jurisdiction under 28 U.S.C. Sec. 1331.

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5. Venue is proper in this District under 28 U.S.C. §1391(b). At least one of the infringing products was offered for sale and sold to the Texas Department of Transportation located in Austin, Texas (within this judicial district).

## **II. FACTS AND CAUSES OF ACTION**

6. Plaintiff is the assignee of United States Letters Patent No. 5,007,585 C1 (the '585 patent) entitled "Roadside Spray Apparatus". This patent was duly and legally issued for a roadside spray apparatus having a spraying head with a plurality of nozzles mounted on the spraying head.

7. Plaintiff is the assignee of United States Letters Patent No. 5,215,255 C1 (the '255 patent) entitled "Roadside Spray Apparatus". This patent was duly and legally issued for a roadside spray apparatus having a spraying head with a plurality of nozzles mounted on the spraying head.

8. Plaintiff is the assignee of United States Letters Patent No. 5,284,297 C1 (the '297 patent) entitled "Roadside Spray Apparatus for Minimizing Drift". This patent was duly and legally issued for an apparatus for roadside spraying of herbicides or other liquids in a manner which ensures uniform application of the herbicide without resorting to atomization of the sprayed liquid.

9. Defendants have infringed the claims of the above-listed patents by their manufacture, use, sale and/or offer for sale of equipment embodying the claims of the patents, and will continue to do so unless enjoined by this Court. Specifically, Defendants' manufacture, use, sale and/or offer for sale of the Mobile Spray Systems R1-2000 Roadside Sprayer (and/or vehicles containing the Mobile Spray Systems R1-2000 Roadside Sprayer) infringe the claims of the above-listed patents.

10. Defendants have induced infringement of the claims of the above-listed patents and/or contributed to the infringement of the claims of the above-listed patents by others.

11. Defendants are believed to be aware of these patents, yet continue to engage in infringement.

12. As a result of these acts of infringement, Plaintiff has been injured in an amount to be determined.

13. Plaintiff requests trial by jury.

### **III. PRAYER**

WHEREFORE, Plaintiff prays that:

A. Defendants, their principals, shareholders, partners, officers, employees, agents, representatives, and all persons acting in concert with them, be enjoined during the pendency of this suit and permanently thereafter from:

Making, using, selling or offering for sale equipment which infringes the claims of Plaintiff's patents and/or inducing others to infringe and/or contributing to infringement by others; and

B. Plaintiff, upon final trial of this case, is awarded:

1. All damages arising from Defendants' wrongful acts;
2. Increased damages for patent infringement pursuant to 35 U.S.C. Sec. 284;
3. Attorneys fees pursuant to 35 U.S.C. Sec. 285;
4. Increased damages and lost profits;
5. Attorneys' fees and prejudgment interest if and as allowed by law;
6. Costs of Court; and
7. Such other and further relief to which it may be entitled.

Respectfully submitted,

HORNBERGER SHEEHAN FULLER  
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By: 

David Jed Williams  
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ATTORNEYS FOR PLAINTIFF