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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

<p>BOSS INDUSTRIES, Inc., a Utah Corporation, Plaintiff, v. POLARIS INDUSTRIES, INC., a Delaware Corporation, Defendant.</p>	<p>COMPLAINT JURY TRIAL DEMANDED Judge Dale A. Kimball DECK TYPE: Civil DATE STAMP: 07/29/2003 @ 16:02:04 CASE NUMBER: 2:03CV00663 DAK</p>
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Plaintiff Boss Industries, Inc. ("Boss"), by and through counsel, hereby complains of Defendant Polaris Industries, Inc. ("Polaris"), and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Boss is a Utah corporation with its principal place of business at 406 West Industrial Drive, Pleasant Grove, Utah 84062. Boss has been and continues to be actively engaged in the



sale of snowmobile seats. Boss's business concentrates on the manufacture and sale of snowmobile seats.

2. On information and belief, Defendant Polaris Industries, Inc. is a Delaware corporation with its principal place of business at 301 5th Avenue. SW, Roseau, MN 56751.

3. On information and belief, Defendant Polaris conducts continuous and systematic business in the state of Utah, including but not limited to offering its products for sale through retail dealers in Utah, such that general personal jurisdiction is appropriate. Additionally, on information and belief, Polaris sells the below identified infringing products in the state of Utah thereby providing specific personal jurisdiction.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(a) and (c).

5. This is an action for patent infringement arising under the patent laws of the United States, and more specifically, under Title 35, United States Code. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and § 1338.

GENERAL ALLEGATIONS

6. On July 11, 2000, United States Patent Number 6,086,149 (the "'149 patent") issued in the name of inventor James Atherley ("Atherley") for an invention titled LIGHT-WEIGHT SNOWMOBILE SEAT. United States Patent Application No. 09/358,179, was originally filed July 20 1999, and became the '149 patent (see copy of '149 Patent attached as Exhibit A).

7. The '149 patent is a continuation-in-part of United States Patent Application No. 08/948,691, filed October 10, 1997, and issued August 31, 1999, as United States Patent No. 5,944,380 for an invention titled LIGHT-WEIGHT VEHICLE SEAT.

8. On May 14, 2002, United States Patent Number 6,386,630 (the “‘630 patent”) issued in the name of inventor Atherley for an invention. United States Patent Application No. 09/611,396, was originally filed July 7, 2000, and became the ‘630 patent (see copy of ‘630 Patent attached as Exhibit B).

9. The ‘630 patent is a continuation-in-part of United States Patent Application No. 09/358,179, filed July 20 1999, and issued July 11, 2000, as United States Patent No. 6,086,149; which is a continuation-in-part application of United States Patent Application No. 08/948,691, filed October 10, 1997, and issued August 31, 1999, as United States Patent No. 5,944,380.

10. On July 1, 2003, United States Patent Number 6,585,317 (the “‘317 patent”) issued in the name of inventor Atherley for an invention titled LIGHT-WEIGHT SNOWMOBILE SEAT. United States Patent Application No. 10/145,593, was originally filed May 13, 2002, and became the ‘317 patent (see copy of ‘317 Patent attached as Exhibit C).

11. The ‘317 patent is a continuation-in-part of United States Patent Application No. 09/611,396, filed July 7, 2000, and issued May 14, 2002, as United States Patent No. 6,386,630; which is a continuation-in-part of United States Patent Application No. 09/358,179, filed July 20 1999, and issued July 11, 2000, as United States Patent No. 6,086,149; which is a continuation-in-part application of United States Patent Application No. 08/948,691, filed October 10, 1997, and issued August 31, 1999, as United States Patent No. 5,944,380.

12. Atherley has granted a license to Boss to be the sole and exclusive licensee of all rights in the ‘149 patent, the ‘630 patent, the ‘317 patent and the ‘380 patent. Boss is thus entitled to bring this action.

FIRST CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 6,086,149)

13. Boss incorporates by reference paragraphs 1 through 12 above, and alleges:

14. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, one or more snowmobiles with seats that infringe one or more claims of the '149 patent.

15. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2003 RMK Vertical Escape snowmobiles with seats that infringe one or more claims of the '149 patent.

16. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2003 Edge Racer snowmobiles with seats that infringe one or more claims of the '149 patent.

17. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2003 Pro-X snowmobiles with seats that infringe one or more claims of the '149 patent.

18. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 RMK Vertical Escape snowmobiles with seats that infringe one or more claims of the '149 patent.

19. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 RMK snowmobiles with seats that infringe one or more claims of the '149 patent.

20. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 Edge snowmobiles with seats that infringe one or more claims of the '149 patent.

21. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 Pro-X snowmobiles with seats that infringe one or more claims of the '149 patent.

22. Polaris has previously been notified of Boss's patent rights. Specifically, Boss sent Polaris a letter dated March 22, 2002 notifying Polaris of Boss's patent rights (see letter attached as Exhibit D). As such, Polaris's activities constitute deliberate and willful infringement of the '149 patent.

23. The acts of infringement of Polaris have caused damages to Boss in an amount that cannot be determined without an accounting. Based upon said Polaris's actions, Boss is entitled to such an accounting for damages which shall not be less than a reasonable royalty pursuant to 35 U.S.C. § 284. Upon information and belief, Boss is further entitled to treble the amount of damages found or assessed for the intentional and willful infringement of the '149 patent pursuant to 35 U.S.C. § 284.

24. Further, the acts of infringement of the '149 patent by Polaris have caused Boss to suffer irreparable harm, which is not fully compensable by money damages. Upon information and belief, Polaris will continue to infringe the '149 patent unless it is enjoined by this Court pursuant to applicable law including 35 U.S.C. § 283. As such, Boss is entitled to a preliminary and permanent injunction.

SECOND CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 6,386,630)

25. Boss incorporates by reference paragraphs 1 through 24 above, and alleges:

26. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, one or more snowmobiles with seats that infringe one or more claims of the '630 patent.

27. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2003 RMK Vertical Escape snowmobiles with seats that infringe one or more claims of the '630 patent.

28. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2003 Edge Racer snowmobiles with seats that infringe one or more claims of the '630 patent.

29. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2003 Pro-X snowmobiles with seats that infringe one or more claims of the '630 patent.

30. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 RMK Vertical Escape snowmobiles with seats that infringe one or more claims of the '630 patent.

31. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 RMK snowmobiles with seats that infringe one or more claims of the '630 patent.

32. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 Edge snowmobiles with seats that infringe one or more claims of the '630 patent.

33. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 Pro-X snowmobiles with seats that infringe one or more claims of the '630 patent.

34. Polaris has previously been notified of Boss's patent rights. Specifically, Boss sent Polaris a letter dated March 22, 2002 notifying Polaris of Boss's patent rights. As such, Polaris's activities constitute deliberate and willful infringement of the '630 patent.

35. The acts of infringement of Polaris have caused damages to Boss in an amount that cannot be determined without an accounting. Based upon said Polaris's actions, Boss is entitled to such an accounting for damages which shall not be less than a reasonable royalty pursuant to 35 U.S.C. § 284. Upon information and belief, Boss is further entitled to treble the amount of damages found or assessed for the intentional and willful infringement of the '630 patent pursuant to 35 U.S.C. § 284.

36. Further, the acts of infringement of the '630 patent by Polaris have caused Boss to suffer irreparable harm, which is not fully compensable by money damages. Upon information and belief, Polaris will continue to infringe the '630 patent unless it is enjoined by this Court pursuant to applicable law including 35 U.S.C. § 283. As such, Boss is entitled to a preliminary and permanent injunction.

THIRD CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 6,585,317)

37. Boss incorporates by reference paragraphs 1 through 36 above, and alleges:

38. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, one or more snowmobiles with seats that infringe one or more claims of the '317 patent.

39. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 RMK Vertical Escape snowmobiles with seats that infringe one or more claims of the '317 patent.

40. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 RMK snowmobiles with seats that infringe one or more claims of the '317 patent.

41. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 Edge snowmobiles with seats that infringe one or more claims of the '317 patent.

42. Polaris manufactures, sells, offers to sell in the United States, and/or imports into the United States, without authority or license from Boss, the 2004 Pro-X snowmobiles with seats that infringe one or more claims of the '317 patent.

43. Polaris has previously been notified of Boss's patent rights. Specifically, Boss sent Polaris a letter dated March 22, 2002 notifying Polaris of Boss's patent rights. As such, Polaris's activities constitute deliberate and willful infringement of the '317 patent.

44. The acts of infringement of Polaris have caused damages to Boss in an amount that cannot be determined without an accounting. Based upon said Polaris's actions, Boss is entitled to such an accounting for damages which shall not be less than a reasonable royalty pursuant to 35 U.S.C. § 284. Upon information and belief, Boss is further entitled to treble the amount of damages found or assessed for intentional and wilful infringement of the '317 patent pursuant to 35 U.S.C. § 284.

45. Further, the acts of infringement of the '317 patent by Polaris have caused Boss to suffer irreparable harm, which is not fully compensable by money damages. Upon information and belief, Polaris will continue to infringe the '317 patent unless it is enjoined by this Court pursuant to applicable law including 35 U.S.C. § 283. As such, Boss is entitled to a preliminary and permanent injunction.

PRAAYER FOR RELIEF

WHEREFORE, Boss respectfully prays for the following relief against Polaris as follows:

A. For judgment against Polaris in an amount of damages to be proved at trial for infringement of the '149, '630 and '317 patent, plus interest thereon at the legal rate, pursuant to applicable law including 35 U.S.C. §284;

B. For a preliminary and permanent injunction enjoining Polaris, their officers, agents, servants, employers, and attorneys, and all other persons in active concert or participation with Polaris from further infringement of the '149, '630 and '317 patents pursuant to applicable law including 35 U.S.C. § 283;

C. For an order requiring Polaris to destroy the infringing snowmobile seats.

D. For an award to Boss of treble the amount of damages found or assessed for infringement of the '149, '630 and '317 patents pursuant to 35 U.S.C. § 284 in light of the willful and deliberate nature of defendants' infringement;

E. That this be declared an exceptional case, and that Boss be awarded its attorney fees under applicable law including 35 U.S.C. § 285;

F. That this Court order an accounting of damages to Boss arising from Polaris's acts of infringement, including profits made by Polaris and profits lost by Boss as a result of Polaris's infringing activities;

G. That this Court award Boss damages adequate to compensate it for Polaris's infringement of the '149, '630 and '317 patents together with pre- and post-judgment interest.

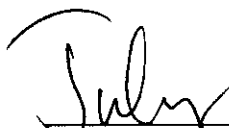
H. That this Court order Polaris to pay Boss's costs and expenses in bringing and prosecuting this action.

I. That this Court grant Boss such other and further relief the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Boss hereby demands a jury trial in this action.

DATED this 29th day of July, 2003.



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Exhibits/
Attachments
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Please see the
case file.