

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. \_\_\_\_\_

PHATRAT TECHNOLOGY, INC.,

Plaintiff,

vs.

POLAR ELECTRO INC. and  
POLAR ELECTRO OY,

Defendants.

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**COMPLAINT**

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Plaintiff, PhatRat Technology, Inc. (“PhatRat”) complains of defendants Polar Electro Inc. and Polar Electro Oy (collectively, “defendants”), as follows:

**THE PARTIES**

1. PhatRat is a Delaware corporation having a place of business at 8408 Brittany Place, Niwot, Colorado 80503.
2. Polar Electro Oy is a Finnish company having a place of business at Professorintie 5, FIN-90440, Kempele, Finland. Polar Electro Oy operates through exclusive marketing and sales companies, including Polar Electro Inc.
3. Polar Electro Inc. is a New York corporation having a place of business at 111 Marcus Avenue, Suite M15, Lake Success, New York 11042. Polar Electro, Inc. is a wholly owned subsidiary and United States agent of Polar Electro Oy.

**JURISDICTION AND VENUE**

4. This is a complaint for patent infringement brought against the defendants identified above, and arises under the patent laws of the United States, Title 35 of the United States Code. This

Court has original jurisdiction over the subject matter of this Complaint under 28 U.S.C. § 1338(a). This Court also has jurisdiction over the parties. Venue in this district is proper under 28 U.S.C. §§ 1391(c) and 1400(b).

### **PATENT INFRINGEMENT**

5. PhatRat owns and has standing to sue for the infringement of United States Letters Patent No. 6,959,259, entitled “System and Methods for Determining Performance Data (“the ‘259 patent”), and United States Letters Patent No. 7,054,784, entitled “Sport Monitoring System, (“the ‘784 patent”). The ‘259 and ‘784 patents are related to PhatRat’s United States Letters Patent No. 6,499,000, entitled “System and Method for Determining Loft Time, Speed, Height and Distance” (“the ‘000 patent”), United States Letters Patent No. 6,516,284, entitled “Speedometer for a Moving Sportsman” (“the ‘284 patent”) and United States Letters Patent No. 6,963,818, entitled “Mobile Speedometer System and Associated Methods” (“the ‘818 patent”). All of these patents ultimately derive from an U.S. Patent Application No. 08/344,485, filed on November 21, 1994.

6. PhatRat has asserted the ‘000, ‘284 and ‘818 patents against defendants in *PhatRat Technology, Inc. v. Polar Electro Inc. and Polar Electro Oy*, Civil Action No. 05-cv-02323-EWN-BNB (“the Polar I Suit”), which is currently pending in this District before Judge Edward W. Nottingham and Magistrate Judge Boyd N. Boland. The Polar I Suit involves at least some of the products that are at issue in this suit.

7. The Polar I suit was filed on November 18, 2005. The Court has issued a Scheduling Order scheduling a preliminary pretrial conference for August 10, 2006, requiring the completion of all discovery by September 30, 2006, and setting a deadline of October 16, 2006 for the filing of dispositive motions.

8. The '259 patent was issued by the United States Patent and Trademark Office on October 25, 2005, and the '784 patent was issued by the United States Patent and Trademark Office on May 30, 2006.

9. Defendant Polar Electro Oy has directly infringed, contributorily infringed and/or actively induced the infringement of one or more claims of the '259 and '784 patents through its manufacture of, use of, sale of, offers to sell and/or importation of speed and distance monitoring products including, without limitation, the S1 Foot Pod, S2 Foot Pod, S-3 Foot Pod, S625X, RS200SD, S725X, RS200 and RS800SD products. Polar Electro Oy has committed one or more of these acts of infringement throughout the United States, including in this judicial district.

10. Defendant Polar Electro Inc. has directly infringed, directly infringed, contributorily infringed and/or actively induced the infringement of one or more claims of the '259 and '784 patents through its manufacture of, use of, sale of, offers to sell and/or importation of speed and distance monitoring products including, without limitation, the S1 Foot Pod, S2 Foot Pod, S625X, RS200SD, S725X and RS200 products. Polar Electro Oy has committed one or more of these acts of infringement throughout the United States, including in this judicial district.

11. The above-described unlawful acts of infringement will continue unless enjoined by this Court.

12. PhatRat has complied with the requirements of 35 U.S.C. § 287(a).

13. The above-described unlawful acts of infringement are, and have been, willful, intentional and deliberate.

14. PhatRat has been damaged by the infringing acts of each of the defendants, and will continue to be damaged unless the defendants, including those acting in concert or participation with them, are restrained from their infringing acts by this Court.

**REQUESTED RELIEF**

WHEREFORE, PhatRat demands a judgment as follows:

- A. An injunction prohibiting each of the defendants and all those acting in concert or participation with them, from further acts of infringement of the '259 patent;
- B. An injunction prohibiting each of the defendants and all those acting in concert or participation with them, from further acts of infringement of the '784 patent;
- C. An award to PhatRat of such damages as it shall prove at trial against each of the defendants, sufficient to fully and adequately compensate PhatRat for all damages caused by the unlawful conduct of each defendant, said damages to be no less than a reasonable royalty;
- D. An award to PhatRat for all damages so determined for willful infringement, pursuant to 35 U.S.C. § 284, together with prejudgment interest;
- E. An award to PhatRat of the cost of this action and its reasonable attorneys fees; and
- F. Such other relief as this Court and the jury may determine to be proper and just.

**JURY DEMAND**

A trial by jury is hereby demanded on all issues triable to a jury in this case.

Respectfully submitted,

s/ David J. Sheikh  
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