IN THE UNITED STATES DISTRICT COURT CHARLOTTE, M.C. FOR THE WESTERN DISTRICT OF NORTH CAROLINA 2004 SEP 13 PM 3: 53

B/E AEROSPACE, INC.,

Plaintiff,

V.

RECARO AIRCRAFT SEATING GmbH
& Co. KG and
RECARO AIRCRAFT SEATING, INC.,

Defendants.

COMPLAINT

COMES NOW the Plaintiff, B/E Aerospace, Inc. (referred to as "B/E Aerospace" or "Plaintiff") and for its Complaint against Defendants Recaro Aircraft Seating GmbH & Co. KG and Recaro Aircraft Seating, Inc. (referred to collectively as "Recaro" or "Defendants"), alleges and says:

A. JURISDICTION AND VENUE

- 1. This civil action arises under the Patent Laws of the United States, United States Code, Title 35, Section 1 et seq., and in particular, 35 U.S.C. §§ 271.
- 2. Jurisdiction is proper in this Court under the provisions of 28 U.S.C. §§ 1331 and 1338(a) in that the claims of the Complaint present a federal question arising under the Patent Laws of the United States.
- 3. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1), (2), (c) and (d), and 28 U.S.C. § 1400(b). Upon information and belief, the Defendant Recaro Aircraft Seating GmbH & Co. KG is an alien with a registered address of Daimlerstrasse 21, 74523 Schwaebisch Hall, Germany and conducts business throughout the United States, including in this district. Upon

information and belief, the Defendant Recaro Aircraft Seating, Inc. is a corporation doing business in Texas and throughout the United States, with a registered address of 2275 Eagle Parkway, Fort Worth, Texas 76177.

B. PARTIES

- 5. Plaintiff B/E Aerospace is a business corporation organized and existing under the laws of the State of Delaware, is domesticated in North Carolina and has a principal place of business in Winston-Salem, North Carolina.
- 6. Upon information and belief, Defendants are each involved in the design, manufacture and sale of, <u>inter alia</u>, aircraft passenger seats throughout the world, including within the State of North Carolina and this district.

C. CLAIM FOR RELIEF AGAINST DEFENDANT

Patent Infringement

- 7. Plaintiff B/E Aerospace is the owner by assignment of all right, title and interest in and to United States Patent No. 5,560,681, entitled "Seat Bottom Extension Mechanism for Passenger Seats", hereinafter referred to as the "B/E Patent."
- 8. Defendants have infringed and continue to infringe the B/E Patent by manufacturing, importing into the United States, using, selling and offering for sale in this District and elsewhere, passenger seats that come within the scope of the B/E Patent in violation of the Patent Laws of the United States, including, inter alia, 35 U.S.C. § 271, or which contributorily infringe or induce infringement of the B/E Patent by others.
- 9. Defendants have knowledge of the B/E Patent and are manufacturing, using, selling or offering for sale infringing passenger seats with knowledge of the B/E Patent, and therefore are willfully infringing the B/E Patent.

10. These acts of infringement are irreparably harming and causing damage to Plaintiff B/E Aerospace and will continue to do so unless and until restrained by this Court.

WHEREFORE, Plaintiff prays:

- A. That this Court preliminarily and permanently enjoin Defendants from infringing the B/E Patent in accordance with 35 U.S.C. §283; and engaging in any advertising or sales of its infringing products;
- B. That Plaintiff be awarded judgment against Defendants for damages resulting from its infringement of the B/E Patent, and that such damages be trebled in accordance with provisions of 35 U.S.C. §284, and for reasonable attorneys' fees in accordance with 35 U.S.C. §285;
- C. That this Court award Plaintiff interest, cost and such further relief that this Court deems just and equitable; and
- D. That this Court order Defendants to pay Plaintiff all its reasonable taxable costs and attorneys' fees in a sum and manner deemed appropriate by this Court based on the deliberate and willful infringement by Defendants as set forth in this Complaint.

Respectfully submitted,

B/E Aerospace, Inc.

By:

W. Thad Adams, III NC State Bar #000020 Attorney for the Plaintiff

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