

Stephen R. Buckingham (SB-6067)  
**LOWENSTEIN SANDLER PC**  
Attorneys At Law  
65 Livingston Avenue  
Roseland, New Jersey 07068  
973.597.2500  
Attorneys for Plaintiff Westport Corporation

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U.S. DISTRICT COURT  
2004 JAN - 8 P 3: 09

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

WESTPORT CORPORATION,

Plaintiff,

-v.-

TBAC INVESTMENT TRUST, and  
TANDY BRANDS ACCESSORIES, INC.,

Defendants.

Civil Action No. 04-CV- 79 (Dmc)

**COMPLAINT  
AND JURY DEMAND**

Westport Corporation ("Westport"), by way of Complaint against Defendants TBAC Investment Trust ("TBAC") and Tandy Brands Accessories, Inc. ("Tandy"), alleges and says:

1. This action arises under the United States patent laws, 35 U.S.C. §101 *et seq.*
2. Subject matter jurisdiction exists pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), and 2201.
3. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b).

4. Plaintiff Westport is a New Jersey corporation with its principal place of business at 331 Changebridge Road, Pine Brook, New Jersey 07058. Westport is a manufacturer of men's and ladies' small leather goods and accessories.

5. Defendant TBAC is a Pennsylvania business trust, that, on information and belief, has offices at 690 East Lamar Boulevard, Suite 200, Arlington, Texas 76011. TBAC is a wholly-owned subsidiary of Defendant Tandy.

6. TBAC, on information and belief, is the owner of United States Patent No. 6,601,622, titled "Personal Accessory With Quick Access," (the "'622 Patent'"), and has licensed the '622 Patent exclusively to Tandy. TBAC has accused Westport of committing acts of infringement in this District.

7. Defendant Tandy is a Delaware corporation having its principal offices at 690 East Lamar Boulevard, Suite 200, Arlington, Texas 76011, and, on information and belief, is the exclusive licensee of the '622 Patent.

8. Tandy is a competitor to Westport in the market for men's and ladies' small leather goods and accessories.

9. On information and belief, Tandy has at all times relevant to the facts alleged herein directed TBAC's activities regarding the '622 Patent, and has the ability to control, and in fact has controlled TBAC's actions taken toward Westport regarding the '622 Patent, including accusing Westport of infringing the '622 Patent.

10. By letter dated December 11, 2003 from TBAC's legal counsel Winstead Sechrest & Minick P.C., TBAC accused Westport of infringing the '622 Patent.

11. Westport's products do not infringe any valid claim of the '622 Patent.

12. The claims of the '622 Patent are invalid for failing to meet the requirements of 35 U.S.C. §§ 102 and 103.

13. On TBAC's behalf, TBAC's legal counsel sent a letter to one of Westport's customers, Beall's Department Stores, Inc., in which it accused Westport products of infringing the '622 Patent. As a consequence, in a letter dated December 24, 2003 from Beall's to TBAC's counsel, Beall's advised that it removed the products in question from its store shelves.

14. On information and belief, Defendants have told other Westport customers that Westport's products infringe the '622 Patent.

15. Westport will unfairly suffer irreparable harm to its goodwill as a result of the Defendants' statements to Westport's customers accusing Westport of infringement.

#### **CLAIMS FOR RELIEF**

##### **FIRST COUNT**

##### **(Declaration of Noninfringement of the '622 Patent)**

16. Westport repeats and realleges each and every allegation of each of the preceding paragraphs as if fully set forth herein.

17. Westport is entitled to a declaratory judgment under 28 U.S.C. § 2201 holding that Westport has not infringed any valid claim of the '622 patent.

##### **SECOND COUNT**

##### **(Declaration that the '622 Patent is Invalid)**

18. Westport repeats and realleges each and every allegation of each of the preceding paragraphs as if fully set forth herein.

19. Westport is entitled to a declaratory judgment under 28 U.S.C. § 2201 holding that the claims of the '622 patent are invalid under 35 U.S.C. §§ 102 and 103.

**PRAYER FOR RELIEF**

WHEREFORE, Westport prays that judgment be entered:

- a. entering judgment on the First Count of this Complaint declaring that the accused products sold by Westport do not infringe any valid claim of the '622 Patent;
- b. entering judgment on the Third Count of this Complaint declaring that the '622 patent is invalid;
- c. entering an injunction enjoining defendants from making any statement to any third party that accuses any Westport product of infringing the '622 Patent;
- d. awarding Westport the costs of this action, and reasonable attorney fees pursuant to 35 U.S.C. § 285; and,
- e. awarding Westport such further relief as the Court deems just and equitable.


**JURY DEMAND**

Plaintiff hereby demands a trial by jury as to all issues so triable.

Date: January 8, 2004

Respectfully submitted,

**LOWENSTEIN SANDLER, P.C.**




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Stephen R. Buckingham (SB-6067)  
**LOWENSTEIN SANDLER, PC**  
65 Livingston Avenue  
Roseland, NJ 07068-1791  
Telephone: (973) 597-2500

ATTORNEYS FOR PLAINTIFF  
WESTPORT CORPORATION

**LOCAL CIVIL RULE 11.2 CERTIFICATION**

I hereby certify that to the best of my knowledge, information and belief, the matter in controversy is not the subject of any other action or proceeding pending in any court or arbitration.

By:   
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Stephen R. Buckingham