

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ASC INC.

Plaintiff,

v.

DR. ING. h.c. F. PORSCHE AG

and

PORSCHE CARS NORTH AMERICA, INC.

and

FRED LAVERY PORSCHE CO.

Defendants.

00-73242

PATRICK J. DUGGAN,

MAGISTRATE JUDGE GOLDMAN

Robert J. Lenihan (P16554) ✓
Monte L. Falcoff (P48015) ✓
Harness, Dickey & Pierce, P.L.C.
5445 Corporate Drive, Suite 400
Troy, Michigan 48098
(248) 641-1600

Attorneys for Plaintiff

JURY TRIAL DEMANDED

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, ASC Inc., through its attorneys, Harness, Dickey & Pierce, P.L.C., and for its Complaint states as follows:

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DETROIT

THE PARTIES

1. Plaintiff ASC Inc. is a corporation incorporated in Michigan and doing business throughout the United States and in foreign countries. Plaintiff has an established place of business within the Eastern District of Michigan, located at One Sunroof Center, Southgate, Michigan 48195.

2. Upon information and belief, Defendant Dr. Ing. h.c. F. Porsche AG (hereinafter "Porsche AG") is a German company having a principal place of business in Weissach, Germany. Porsche AG actively conducts regular business within the Eastern District of Michigan.

3. Upon information and belief, Defendant Porsche Cars North America, Inc. (hereinafter "Porsche North America") is a Nevada corporation, having a principal place business at 980 Hammond Drive N.E., Suite 1000, Atlanta, Georgia 30328-5313. Porsche North America actively conducts regular business within the Eastern District of Michigan.

4. Upon information and belief, Defendant Fred Lavery Porsche Co. (hereinafter "Fred Lavery") is a Michigan company having a principal place of business at 394 South Woodward Avenue, Birmingham, Michigan 48009. Fred Lavery actively conducts regular business within the Eastern District of Michigan.

JURISDICTION AND VENUE

5. This is an action alleging infringement of United States Letters Patent, pursuant to the laws as set forth in Title 35 U.S.C., and particularly, 35 U.S.C. §§271, 281, 283, 284 and 285. Jurisdiction is conferred by 28 U.S.C. §1338(a).

6. Venue is proper in this Court pursuant to 28 U.S.C. §1400(b), because, on information and belief, Defendants have committed acts of patent infringement within the judicial district and have either a regular and established place of business within this judicial district, or have regularly and actively conducted business within this judicial district.

COUNT I - INFRINGEMENT OF U.S. PATENT NO. 5,825,147

7. Plaintiff hereby realleges and incorporates by reference all of the preceding paragraphs of this Complaint as if fully set forth herein.

8. U.S. Letters Patent No. 5,825,147 (hereinafter "the '147 patent"), entitled "Control System for a Vehicle Having a Moveable Vehicle Body Member," naming Porter et al. as inventors, was duly and legally issued by the U.S. Patent and Trademark Office on October 20, 1998. A copy of the '147 patent is attached hereto as Exhibit A.

9. Plaintiff is the owner of the '147 patent, and possesses the right to sue for all relief for infringement thereof as authorized by Title 35 U.S.C.

10. Upon information and belief, Defendants have infringed and are infringing at least one claim of the '147 patent under 35 U.S.C. §271 in at least the Eastern District of Michigan, without the consent of Plaintiff, and will continue to do so unless enjoined by this Court.

11. Upon information and belief, Defendants have infringed at least one claim of the '147 patent, by the manufacture, use, sale, offer for sale, and/or importation

into the United States, of at least the Porsche Boxster automotive vehicles and/or the Porsche 911 convertible automotive vehicles.

12. Upon information and belief, Defendants have had notice of the '147 patent such that Defendants' infringement of the '147 patent has been willful.

13. Defendants' infringement of the '147 patent has irreparably injured Plaintiff, and will cause Plaintiff added injury and loss unless enjoined by the Court.

COUNT II - INFRINGEMENT OF U.S. PATENT NO. 5,451,849

14. Plaintiff hereby realleges and incorporates by reference all of the preceding paragraphs of this Complaint as if fully set forth herein.

15. U.S. Letters Patent No. 5,451,849 (hereinafter "the '849 patent"), entitled "Motorized Self-Correcting Automatic Convertible Top," naming Porter et al. as inventors, was duly and legally issued by the U.S. Patent and Trademark Office on September 19, 1995. A copy of the '849 patent is attached hereto as Exhibit B.

16. Plaintiff is the owner of the '849 patent, and possesses the right to sue for all relief for infringement thereof as authorized by Title 35 U.S.C.

17. Upon information and belief, Defendants have infringed and are infringing at least one claim of the '849 patent under 35 U.S.C. §271 in at least the Eastern District of Michigan, without the consent of Plaintiff, and will continue to do so unless enjoined by this Court.

18. Upon information and belief, Defendants have infringed at least one claim of the '849 patent, by the manufacture, use, sale, offer for sale, and/or importation

into the United States, of at least the Porsche Boxster automotive vehicles and/or the Porsche 911 convertible automotive vehicles.

19. Upon information and belief, Defendants have had notice of the '849 patent such that Defendants' infringement of the '849 patent has been willful.

20. Defendants' infringement of the '849 patent has irreparably injured Plaintiff, and will cause Plaintiff added injury and loss unless enjoined by the Court.

COUNT III -INFRINGEMENT OF U.S. PATENT NO. 5,225,747

21. Plaintiff hereby realleges and incorporates by reference all of the preceding paragraphs of this Complaint as if fully set forth herein.

22. U.S. Letters Patent No. 5,225,747 (hereinafter "the '747 patent"), entitled "Single-Button Actuated Self-Correcting Automatic Convertible Top," naming Helms et al. as inventors, was duly and legally issued by the U.S. Patent and Trademark Office on July 6, 1993. A copy of the '747 patent is attached hereto as Exhibit C.

23. Plaintiff is the owner of the '747 patent, and possesses the right to sue for all relief for infringement thereof as authorized by Title 35 U.S.C.

24. Upon information and belief, Defendants have infringed and are infringing at least one claim of the '747 patent under 35 U.S.C. §271 in at least the Eastern District of Michigan, without the consent of Plaintiff, and will continue to do so unless enjoined by this Court.

25. Upon information and belief, Defendants have infringed at least one claim of the '747 patent, by the manufacture, use, sale, offer for sale, and/or importation

into the United States, of at least the Porsche Boxster automotive vehicles and/or the Porsche 911 convertible automotive vehicles.

26. Upon information and belief, Defendants have had notice of the '747 patent such that Defendants' infringement of the '747 patent has been willful.

27. Defendants' infringement of the '747 patent has irreparably injured Plaintiff, and will cause Plaintiff added injury and loss unless enjoined by the Court.

COUNT IV - INFRINGEMENT OF U.S. PATENT NO. 5,785,375

28. Plaintiff hereby realleges and incorporates by reference all of the preceding paragraphs of this Complaint as if fully set forth herein.

29. U.S. Letters Patent No. 5,785,375 (hereinafter "the '375 patent"), entitled "Retractable Hard-Top for an Automotive Vehicle," naming Alexander et al. as inventors, was duly and legally issued by the U.S. Patent and Trademark Office on July 28, 1998. A copy of the '375 patent is attached hereto as Exhibit D.

30. Plaintiff is the owner of the '375 patent, and possesses the right to sue for all relief for infringement thereof as authorized by Title 35 U.S.C.

31. Upon information and belief, Defendants have infringed and are infringing at least one claim of the '375 patent under 35 U.S.C. §271 in at least the Eastern District of Michigan, without the consent of Plaintiff, and will continue to do so unless enjoined by this Court.

32. Upon information and belief, Defendants have infringed at least one claim of the '375 patent, by the manufacture, use, sale, offer for sale, and/or importation

into the United States, of at least the Porsche Boxster automotive vehicles and/or the Porsche 911 convertible automotive vehicles.

33. Upon information and belief, Defendants have had notice of the '375 patent such that Defendants' infringement of the '375 patent has been willful.

34. Defendants' infringement of the '375 patent has irreparably injured Plaintiff, and will cause Plaintiff added injury and loss unless enjoined by the Court.

ACCORDINGLY, Plaintiff prays:

A. That a preliminary injunction be granted restraining Defendants from irreparably injuring Plaintiff by infringement of the '147, '849, '747 and '375 patents during this litigation;

B. That an injunction be granted permanently restraining Defendants from further infringement of the '147, '849, '747 and '375 patents during the remainder of the term for which these patents have been granted;

C. That judgment be entered for Plaintiff, and Defendants be ordered to account to Plaintiff to determine the extent of the damages adequate to compensate Plaintiff for such acts of infringement;

D. That the damages so determined be trebled because of the believed willful and deliberate character of the infringement;

E. That Plaintiff be awarded its costs and reasonable attorneys fees, together with prejudgment interest and such other interest as may be permitted by law; and

F. That Plaintiff be granted such other and further relief to which it may be justly entitled.

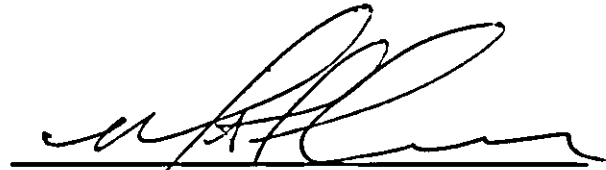
DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues so triable in this action.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

Dated: July 20, 2000



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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

SEE CASE FILE FOR
ADDITIONAL
DOCUMENTS OR PAGES
THAT WERE NOT
SCANNED