

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

BERGSTROM, INC.,	)	
	)	Case No. 3:09-cv-50191
Plaintiff,	)	
	)	
vs.	)	
	)	
GLACIER BAY, INC.,	)	
	)	
Defendant.	)	

**AMENDED COMPLAINT**

Plaintiff, Bergstrom, Inc., through its attorneys, alleges for its Complaint against Glacier Bay, Inc., as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 and 281, *et seq.*

**THE PARTIES**

2. Bergstrom, Inc. ("Bergstrom") is an Illinois corporation having a principal place of business at 2390 Blackhawk Road, Rockford, Illinois.

3. Upon information and belief, Glacier Bay is a Delaware corporation having a principal place of business at 2845 Chapman Street in Oakland, California 94601.

## **JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a), because this civil action arises under the Patent Act.

5. This Court has personal jurisdiction over Glacier Bay, pursuant to Illinois' long-arm statute, 735 I.L.C.S. §5/2-209, and otherwise, because, on information and belief, the infringing goods are offered for sale and/or sold in the state of Illinois, and the injury of Glacier Bay's infringement will be felt mainly in the State of Illinois where Bergstrom is located.

6. Venue is appropriate in this district because Glacier Bay is a resident of this district as defined by 28 U.S.C. § 1391(c).

### **COUNT I INFRINGEMENT OF U.S. PATENT NO. 7,448,227**

7. On November 11, 2008, United States Patent No. 7,448,227 B2, entitled "Vehicle Air Conditioning And Heating Method Providing Engine On And Engine Off Operation" (the "'227 Patent"), was duly and legally issued to inventors Terry Ziegler and Eric Elias.

8. The '227 Patent was assigned to Bergstrom, Inc.

9. Upon information and belief, Glacier Bay has infringed and continues to infringe one or more claims of the '227 Patent by its manufacture, use, offer for sale, and/or sale products that embody the inventions of and are within the scope of the '227 Patent, and/or by causing others to manufacture, offer for

sale, sell, and/or use such infringing products, including, without limitation, certain climate control systems known as the "ClimaCab" system, or "No-Idle Truck HVAC," or variants thereof.

10. Upon information and belief, Glacier Bay's infringement has been and continues to be willful.

11. As a result of Glacier Bay's actions, Bergstrom has suffered and continues to suffer substantial harm, including certain irreparable injuries, that will continue until and unless Glacier Bay is enjoined by this Court.

**COUNT II**  
**INFRINGEMENT OF U.S. PATENT NO. 7,454,922**

12. Plaintiff incorporates herein by reference and realleges each and every allegation contained in paragraphs 1-11, above.

13. On November 25, 2008, United States Patent No. 7,454,922, entitled "Vehicle Air Conditioning And Heating Method Providing Engine On And Engine Off Operation" (the "'922 Patent"), was duly and legally issued to inventors Terry Ziegler and Eric Elias.

14. The '922 Patent was assigned to Bergstrom, Inc.

15. Upon information and belief, Glacier Bay has infringed and continues to infringe one or more claims of the '922 Patent by its manufacture, use, offer for sale, and/or sale products that embody the inventions of and are within the scope of the '922 Patent, and/or by causing others to manufacture, offer for sale, sell, and/or use such infringing products, including, without limitation,

certain climate control systems known as the "ClimaCab" system, or "No-Idle Truck HVAC," or variants thereof.

16. Upon information and belief, Glacier Bay's infringement has been and continues to be willful.

17. As a result of Glacier Bay's actions, Bergstrom has suffered and continues to suffer substantial harm, including certain irreparable injuries, that will continue until and unless Glacier Bay is enjoined by this Court.

**COUNT III  
INFRINGEMENT OF U.S. PATENT NO. 7,591,303**

18. Plaintiff incorporates herein by reference and realleges each and every allegation contained in paragraphs 1-17, above.

19. On September 22, 2009, United States Patent No. 7,591,303, entitled "Vehicle Air Conditioning And Heating Method Providing Engine On And Engine Off Operation" (the "'303 Patent"), was duly and legally issued to inventors Terry Ziegler and Eric Elias.

20. The '303 Patent was assigned to Bergstrom, Inc.

21. Upon information and belief, Glacier Bay has infringed and continues to infringe one or more claims of the '303 Patent by its manufacture, use, offer for sale, and/or sale products that embody the inventions of and are within the scope of the '303 Patent, and/or by causing others to manufacture, offer for sale, sell, and/or use such infringing products, including, without limitation,

certain climate control systems known as the "ClimaCab" system, or "No-Idle Truck HVAC," or variants thereof.

22. Upon information and belief, Glacier Bay's infringement has been and continues to be willful.

23. As a result of Glacier Bay's actions, Bergstrom has suffered and continues to suffer substantial harm, including certain irreparable injuries, that will continue until and unless Glacier Bay is enjoined by this Court.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Bergstrom asks this Court to enter judgment in its favor and against Glacier Bay as follows:

A. Finding that Glacier Bay has infringed, induced others to infringe, and/or contributed to the infringement of the '227 Patent, the '922 Patent and/or the '303 Patent;

B. Awarding damages to Bergstrom under 35 U.S.C. § 284, along with interest and costs, for Glacier Bay's infringement of the '227 Patent, the '922 Patent and/or the '303 Patent;

C. Entering a permanent injunction under 35 U.S.C. § 283 enjoining Glacier Bay, its agents, sales representatives, distributors, servants and employees, attorneys, affiliates, subsidiaries, successors and assigns, and any and all persons or entities acting at, through, under or in active concert or in participation with any or all of them, from infringing the '227 Patent, the '922 Patent and/or the '303 Patent;

D. Finding that this case is an exception case under 35 U.S.C. § 285, and awarding Bergstrom its attorneys' fees and costs;

E. Finding that Glacier Bay's infringement of the '227 Patent, the '922 Patent and/or the '303 Patent was willful, and trebling any damages awarded; and

F. Awarding to Bergstrom such other and further relief as the Court deems just and equitable.

### **JURY DEMAND**

Bergstrom requests a trial by jury on all issues so triable.

Dated this 2nd day of October, 2009.

s/ Paul J. Stockhausen  
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