

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

)	
BENDIX COMMERCIAL VEHICLE)	
SYSTEMS LLC,)	
)	
KNORR-BREMSE SYSTEME FÜR)	
NUTZFAHRZEUGE GMBH,)	
)	
and)	
)	
BENDIX SPICER FOUNDATION BRAKE)	
LLC,)	
)	
Plaintiffs,)	
)	
v.)	
)	
ARVINMERITOR, INC.,)	
)	
MERITOR HEAVY VEHICLE SYSTEMS)	
LLC,)	
)	
MERITOR WABCO VEHICLE)	
CONTROL SYSTEMS,)	
)	
and)	
)	
WABCO AUTOMOTIVE CONTROL)	
SYSTEMS, INC.)	
)	
Defendants.)	
)	

CASE NO. 1:09-CV-0177

Judge Aldrich

Mag. Judge Gallas

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

Plaintiffs Bendix Commercial Vehicle Systems LLC (“BCVS”), Knorr-Bremse Systeme Für Nutzfahrzeuge GmbH (“Knorr-Bremse SfN”), and Bendix Spicer Foundation Brake LLC (“Bendix Spicer”), (collectively, “Plaintiffs”), by their undersigned attorneys, for their complaint against Defendants ArvinMeritor, Inc. (“ArvinMeritor”), Meritor Heavy Vehicle Systems LLC

(“MHVS”), Meritor Wabco Vehicle Control Systems (“Meritor Wabco”), and Wabco Automotive Control Systems, Inc. (“Wabco Automotive”) (collectively, “Defendants”), allege and state as follows:

PARTIES

1. BCVS is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business at 901 Cleveland Street, Elyria, OH 44305.

2. Knorr-Bremse Sfn is a corporation organized and existing under the laws of Germany, with a principal place of business at Moosacher Straße 80, 80809 München, Germany.

3. Bendix Spicer is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business at 901 Cleveland Street, Elyria, OH 44305.

4. On information and belief, ArvinMeritor is a corporation organized and existing under the laws of the State of Indiana, with a principal place of business at 2135 West Maple Road, Troy, MI 48084-7186. On information and belief, ArvinMeritor is registered to do business in the State of Ohio, and has assigned CT Corporation System, 1300 E. Ninth St., Cleveland, Ohio 44114, to serve as its registered agent.

5. On information and belief, MHVS is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 2135 West Maple Road, Troy, MI 48084. On information and belief, MHVS is registered to do business in the State of Ohio, and has assigned CT Corporation System, 1300 E. Ninth St., Cleveland, Ohio 44114, to serve as its registered agent.

6. On information and belief, Meritor Wabco is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 2135 West Maple Road, Troy, MI 48084.

7. On information and belief, Wabco Automotive is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 1370 Avenue of the Americas, Suite 33, New York, NY 10019.

JURISDICTION AND VENUE

8. This is a civil action arising under the patent laws of the United States, as set forth in Title 35 of the United States Code.

9. This Court has original and exclusive subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1332, and 1338(a).

10. This Court has personal jurisdiction over ArvinMeritor by virtue of the fact that, on information and belief, ArvinMeritor has registered to do business in the State of Ohio and does business in the State of Ohio, including in this judicial district.

11. This Court has personal jurisdiction over MHVS by virtue of the fact that, on information and belief, MHVS has registered to do business in the State of Ohio and does business in the State of Ohio, including this judicial district.

12. This Court has personal jurisdiction over Meritor Wabco under Ohio Rev. Code § 2307.382(A)(1), (2), (3) and/or (4) by virtue of the fact that, on information and belief, Meritor Wabco regularly transacts and/or solicits business in the State of Ohio, including in this judicial district.

13. This Court has personal jurisdiction over Wabco Automotive under Ohio Rev. Code § 2307.382(A)(1), (2), (3) and/or (4) by virtue of the fact that, on information and belief,

Wabco Automotive regularly transacts and/or solicits business in the State of Ohio, including in this judicial district.

14. Venue is proper in this judicial district under 28 U.S.C. § 1391 and 1400(b).

THE PATENT-IN-SUIT

15. On November 15, 2005, the United States Patent and Trademark Office duly and legally reissued U.S. Patent No. 5,927,445 as U.S. Patent No. RE38,874 (“the ‘874 Reissue Patent”), entitled “Disc Brake for Vehicles Having Insertable Actuator,” naming Dieter Bieker and Hans Baumgartner as the inventors. A true and correct copy of the ‘874 Reissue Patent is attached as Exhibit A.

16. Knorr-Bremse SfN is the owner by assignment of all legal rights, title, and interest in and to the ‘874 Reissue Patent.

17. Knorr-Bremse SfN has granted BCVS an exclusive license under the ‘874 Reissue Patent. BCVS subsequently granted Bendix Spicer a limited sublicense under the ‘874 Reissue Patent.

18. The ‘874 Reissue Patent is directed to, *inter alia*, a disc brake for vehicles and a method of making the disc brake.

COUNT 1

Infringement of U.S. Patent No. RE38,874

19. Plaintiffs incorporate the allegations contained in Paragraphs 1 through 16 above as though fully set forth herein.

20. On information and belief, ArvinMeritor, MHVS, Meritor Wabco, and Wabco Automotive, individually and/or jointly, without Plaintiffs’ authority, make, use, offer to sell, sell within the United States, and/or import into the United States, products, including without limitation the DiscPlus EX225 and NG 22 air disc brakes, that incorporate, make use of, and/or

practice the inventions covered by the '874 Reissue Patent, thereby infringing, contributing to the infringement of, and/or actively inducing infringement of one or more claims of the '874 Reissue Patent pursuant to 35 U.S.C. § 271.

21. On information and belief, ArvinMeritor, MHVS, Meritor Wabco, and Wabco Automotive have been aware of the '874 Reissue Patent, and their infringement thereof, since the time of its issuance, and were aware of the status of the application leading to the '874 Reissue Patent while it was pending before the U.S. Patent & Trademark Office prior to its issuance.

22. Despite their knowledge of the '874 Reissue Patent and their infringement thereof, ArvinMeritor, MHVS, Meritor Wabco, and Wabco Automotive recklessly proceeded to directly and/or indirectly infringe one or more claims of the '874 Reissue Patent. ArvinMeritor, MHVS, Meritor Wabco, and Wabco Automotive's infringement therefore has been willful.

23. Plaintiffs have suffered monetary damages by reason of ArvinMeritor, MHVS, Meritor Wabco, and Wabco Automotive's infringement of the '874 Reissue Patent.

24. On information and belief, ArvinMeritor, MHVS, Meritor Wabco, and Wabco Automotive will continue to infringe the '874 Reissue Patent unless enjoined from doing so by this Court.

REQUESTED RELIEF

WHEREFORE, Plaintiffs Bendix Commercial Vehicle Systems LLC, Knorr-Bremse Systeme Für Nutzfahrzeuge GmbH, and Bendix Spicer Foundation Brake LLC request relief against Defendants ArvinMeritor, Inc., Meritor Heavy Vehicle Systems LLC, Meritor Wabco Vehicle Control Systems, and Wabco Automotive Control Systems, Inc. as follows:

- A. A judgment that Defendants have directly and/or indirectly infringed the '874 Reissue Patent;

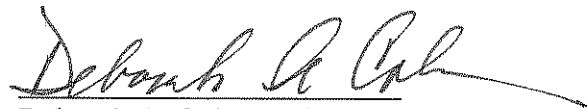
- B. A judgment that Defendants' infringement has been willful;
- C. A permanent injunction enjoining and restraining Defendants or anyone acting on their behalf from further infringement of the '874 Reissue Patent;
- D. A judgment and order requiring Defendants to pay damages under 35 U.S.C. § 284, including treble damages for willful infringement, with prejudgment and post-judgment interest;
- E. A finding that this is an exceptional case, and an order awarding Plaintiffs their costs and reasonable attorneys fees under 35 U.S.C. § 285; and
- F. Any and all such other and further relief as this Court may deem appropriate.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all issues triable to a jury.

Respectfully submitted,

By:



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DATED: May 18, 2009.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the First Amended Complaint will be served upon each of the Defendants listed below, at the addresses stated below, with the Summons, in the manner that will be shown by the return of service:

ArvinMeritor, Inc.
c/o Registered Agent CT Corporation System
1300 E. Ninth St.
Cleveland, OH 44114

Meritor Heavy Vehicle Systems LLC
c/o Registered Agent CT Corporation System
1300 E. Ninth St.
Cleveland, OH 44114

Meritor Wabco Vehicle Control Systems
2135 West Maple Road
Troy, MI 48084



Deborah A. Coleman (#0017908)
One of the Attorneys for *Bendix Commercial Vehicle Systems, LLC, Knorr-Bremse Systeme Für Nutzfahrzeuge GmbH, and Bendix Spicer Foundation Brake LLC*