

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

<b>HENROB LIMITED,</b>	)	
	)	
<b>Plaintiff/Counter-Defendant</b>	)	
	)	Case No. 2:05-CV-73214-DT
<b>v.</b>	)	
	)	Judge Robert H. Cleland
<b>BÖLLHOFF SYSTEMTECHNICK</b>	)	
<b>GMBH &amp; CO, et al.,</b>	)	Jury Trial Demanded
	)	
<b>Defendants/Counter-Plaintiffs</b>	)	
	)	

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BMW of North America, LLC, Rolls-Royce  
Motor Cars Ltd. and Rolls-Royce Motor Cars  
NA, LLC*

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**HENROB LIMITED’S FIRST AMENDED COMPLAINT RELATING TO  
BAYERISCHE MOTOREN WERKE AG, BMW OF NORTH AMERICA LLC,  
ROLLS-ROYCE MOTOR CARS LTD., AND ROLLS-ROYCE MOTOR CARS NA, LLC**

NOW COMES Henrob Limited (“Henrob”) by its attorneys Fish & Richardson, P.C. and Dickinson Wright, PLLC, and brings this complaint for infringement of United States Patent No.

5,752,305 (the “’305 patent”) under 35 U.S.C. § 271 against Bayerische Motoren Werke AG (“BMW AG”), BMW of North America LLC (“BMW NA”), Rolls-Royce Motor Cars Ltd. (“Rolls-Royce Ltd.”), and Rolls-Royce Motor Cars NA, LLC (“Rolls-Royce NA”). A copy of the ’305 patent is attached as Exhibit A.

### **NATURE OF THE ACTION**

1. This patent infringement action involving the ’305 patent arises out of the same transaction and occurrence giving rise to another action currently pending before Hon. Robert H. Cleland of the United States District Court for the Eastern District of Michigan bearing the caption Böllhoff Systemtechnik GMBH & CO. KG v. Henrob Limited, assigned Case No. 2:05-CV-73214 (“Böllhoff action”). In the Böllhoff action, Böllhoff Systemtechnik GMBH & CO KG (“Böllhoff”) purports to bring a claim pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, and Section 43 of the Lanham Act, 15 U.S.C. § 1125. Henrob denies any liability and has filed a counterclaim in the Böllhoff action alleging infringement of the ’305 patent.

### **PARTIES**

2. Henrob is a corporation organized and existing under the laws of the United Kingdom with its principal place of business at Second Avenue, Deeside Industrial Park, Flintshire, United Kingdom CH5 2NX.

3. On information and belief, BMW AG is a corporation organized and existing under the laws of the Federal Republic Germany with its principal place of business at Petuelring 130, 80809 Munich, Germany.

4. On information and belief, BMW NA is a Delaware corporation with its principal places of business at 300 Chestnut Ridge Road, Woodcliff Lake, New Jersey, 07677. BMW NA’s agent for service of process is: c/o The Corporation Company, 30600 Telegraph Road,

Bingham Farms, MI 48025.

5. On information and belief, Rolls-Royce Ltd. is a corporation organized and existing under the laws of the United Kingdom with its principal place of business at Stane Street, Westhampnett, Chichester, West Sussex, PO18 0SH, UK.

6. On information and belief, Rolls-Royce NA is a Delaware limited liability company with its principal places of business at 300 Chestnut Ridge Rd, Woodcliff Lake, NJ 07677. BMW NA's agent for service of process is: c/o The Corporation Company, 30600 Telegraph Road, Bingham Farms, MI 48025.

### **JURISDICTION AND VENUE**

7. This claim for patent infringement arising under the patent laws of the United States, Title 35, United States Code. This Court has exclusive subject matter jurisdiction over this claim for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over BMW AG, BMW NA, Rolls-Royce Ltd., and Rolls-Royce NA pursuant to M.C.L.A § 600.715 because, on information and belief, each has committed acts or caused acts to be committed within Michigan, including in this judicial district, that give rise to this counterclaim and each has established minimum contacts with the forum such that the exercise of jurisdiction over each would not offend traditional notions of fair play and substantial justice.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(d) because BMW AG and Rolls-Royce Ltd. are alien corporations without a normal place of business within any state in the United States. Venue is also proper in this judicial district pursuant to 28 U.S.C. 28 U.S.C. § 1391(c) and 1400(b) because BMW AG, BMW NA, Rolls-Royce Ltd., and Rolls-Royce NA reside in this judicial district.

**COUNT I**

**PATENT INFRINGEMENT**

10. Henrob hereby incorporates by reference the allegations of paragraphs 1-9 as if fully incorporated herein.

11. Henrob is the owner of all rights, title and interest in and to the '305 patent, issued by the United States Patent and Trademark Office on May 19, 1998, titled "Self-Piercing Riveting Method and Apparatus," a re-examination certificate for which issued on April 19, 2005.

12. The '305 patent discloses and claims riveting machines and methods for riveting in which two sheets of material are interconnected by driving a self-piercing rivet through the first sheet into non-piercing engagement with the second sheet.

13. Upon information and belief, Böllhoff makes, uses, sells, and offers to sell, machines for riveting sheet metal with self-piercing rivets ("Riveters"), including but not limited to those marketed under the RIVSET® brand, which use a method of riveting sheet metal with self piercing rivets ("Riveting Methods"), to customers located inside and outside of the United States, including customers that import and use Riveters in the United States, and customers that use Riveters and the Riveting Methods on products, such as automobiles, that are imported into and sold to others in the United States, including into and in this judicial district.

14. Upon information and belief, Böllhoff's Riveters, including but not limited to those marketed under the RIVSET® brand, and Riveting Methods infringe one or more claims of the '305 patent.

15. Upon information and belief, BMW AG makes and/or produces automobiles, including but not limited to the 5-series, using Böllhoff's Riveters and/or Riveting Methods, and sells these automobiles for importation into, imports them into, and/or uses, offers for sale,

and/or sells them in the United States after importation.

16. Upon information and belief, BMW AG makes and/or produces automobiles, including but not limited to the 5-series, using the processes covered by one or more of the claims of the '305 patent and sells these automobiles for importation into, imports them into, and/or uses, offers for sale, and/or sells them in the United States after importation.

17. Upon information and belief, BMW AG is infringing the '305 patent under 35 U.S.C. § 271 by performing, without authority, one or more of the following acts: (a) offering to sell, selling, and/or using within the United States products manufactured using the inventions of the '305 patent; (b) importing into the United States products made pursuant to the inventions of the '305 patent; (c) contributing to the infringement of the '305 patent by others in the United States; and/or (d) inducing others to infringe the '305 patent within the United States.

18. Upon information and belief, BMW AG has profited through infringement of the claims of the '305 patent. As a result of BMW AG's unlawful infringement of the '305 patent, Henrob has suffered and will continue to suffer grievous damage.

19. Upon information and belief, BMW AG's acts of infringement herein have been made with full knowledge of Henrob's rights in the '305 patent. Such acts constitute willful infringement making this case exceptional pursuant to 35 U.S.C. §§ 284 and 285, entitling Henrob to enhanced damages and reasonable attorneys fees.

20. Upon information and belief, BMW NA uses, sells, and/or offers for sale in the United States, including in this judicial district, and/or imports into the United States, including into this judicial district, automobiles, including but not limited to the 5-series, manufactured using Böllhoff's Riveters and/or Riveting Methods.

21. Upon information and belief, BMW NA uses, sells, and/or offers for sale in the

United States, including in this judicial district, and/or imports into the United States, including into this judicial district, automobiles, including but not limited to the 5-series, manufactured using the processes covered by one or more of the claims of the '305 patent.

22. Upon information and belief, BMW NA is infringing the '305 patent under 35 U.S.C. § 271 by performing, without authority, one or more of the following acts: (a) offering to sell, selling, and/or using within the United States products manufactured using the inventions of the '305 patent; (b) importing into the United States products made pursuant to the inventions of the '305 patent; (c) contributing to the infringement of the '305 patent by others in the United States; and/or (d) inducing others to infringe the '305 patent within the United States.

23. Upon information and belief, BMW NA has profited through infringement of the claims of the '305 patent. As a result of BMW NA's unlawful infringement of the '305 patent, Henrob has suffered and will continue to suffer grievous damage.

24. Upon information and belief, BMW NA's acts of infringement herein have been made with full knowledge of Henrob's rights in the '305 patent. Such acts constitute willful infringement making this case exceptional pursuant to 35 U.S.C. §§ 284 and 285, entitling Henrob to enhanced damages and reasonable attorneys fees.

25. Upon information and belief, Rolls-Royce Ltd. makes, produces, has made, and/or has produced automobiles, including but not limited to the Phantom, using Böllhoff's Riveters and/or Riveting Methods, and sells these automobiles for importation into, imports them into, and/or uses, offers for sale, and/or sells them in the United States after importation.

26. Upon information and belief, Rolls-Royce Ltd. makes, produces, has made, and/or has produced automobiles, including but not limited to the Phantom, using the processes covered by one or more of the claims of the '305 patent and sells these automobiles for

importation into, imports them into, and/or uses, offers for sale, and/or sells them in the United States after importation.

27. Upon information and belief, Rolls-Royce Ltd. is infringing the '305 patent under 35 U.S.C. § 271 by performing, without authority, one or more of the following acts: (a) offering to sell, selling, and/or using within the United States products manufactured using the inventions of the '305 patent; (b) importing into the United States products made pursuant to the inventions of the '305 patent; (c) contributing to the infringement of the '305 patent by others in the United States; and/or (d) inducing others to infringe the '305 patent within the United States.

28. Upon information and belief, Rolls-Royce Ltd. has profited through infringement of the claims of the '305 patent. As a result of Rolls-Royce Ltd.'s unlawful infringement of the '305 patent, Henrob has suffered and will continue to suffer grievous damage.

29. Upon information and belief, Rolls-Royce Ltd.'s acts of infringement herein have been made with full knowledge of Henrob's rights in the '305 patent. Such acts constitute willful infringement making this case exceptional pursuant to 35 U.S.C. §§ 284 and 285, entitling Henrob to enhanced damages and reasonable attorneys fees.

30. Upon information and belief, Rolls-Royce NA uses, sells, and/or offers for sale in the United States, including in this judicial district, and/or imports into the United States, including into this judicial district, automobiles, including but not limited to the Phantom, manufactured using Böllhoff's Riveters and/or Riveting Methods.

31. Upon information and belief, Rolls-Royce NA uses, sells, and/or offers for sale in the United States, including in this judicial district, and/or imports into the United States, including into this judicial district, automobiles, including but not limited to the Phantom, manufactured using the processes covered by one or more of the claims of the '305 patent.

32. Upon information and belief, Rolls-Royce NA is infringing the '305 patent under 35 U.S.C. § 271 by performing, without authority, one or more of the following acts: (a) offering to sell, selling, and/or using within the United States products manufactured using the inventions of the '305 patent; (b) importing into the United States products made pursuant to the inventions of the '305 patent; (c) contributing to the infringement of the '305 patent by others in the United States; and/or (d) inducing others to infringe the '305 patent within the United States.

33. Upon information and belief, Rolls-Royce NA has profited through infringement of the claims of the '305 patent. As a result of Rolls-Royce NA's unlawful infringement of the '305 patent, Henrob has suffered and will continue to suffer grievous damage.

34. Upon information and belief, Rolls-Royce NA's acts of infringement herein have been made with full knowledge of Henrob's rights in the '305 patent. Such acts constitute willful infringement making this case exceptional pursuant to 35 U.S.C. §§ 284 and 285, entitling Henrob to enhanced damages and reasonable attorneys fees.

35. This case is exceptional under 35 U.S.C. § 285.

#### **PRAAYER FOR RELIEF**

Wherefore Henrob requests that this Court grant the following relief:

A. A judgment that each of BMW AG, BMW NA, Rolls-Royce Ltd., and Rolls-Royce NA has directly infringed the '305 patent, contributorily infringed the '305 patent, and/or induced infringement of the '305 patent;

B. A judgment and order requiring BMW AG, BMW NA, Rolls-Royce Ltd., and Rolls-Royce NA to pay Henrob damages under 35 U.S.C. § 284, including treble damages for willful infringement as provided by 35 U.S.C. § 284, for the time period up to and including January 11, 2006;

C. A judgment and order requiring BMW AG, BMW NA, Rolls-Royce Ltd., and



Rolls-Royce NA to pay Henrob pre-judgment and post-judgment interest on the damages awarded;

D. A judgment and order requiring BMW AG, BMW NA, Rolls-Royce Ltd., and Rolls-Royce NA to pay Henrob the costs of this action (including all disbursements) and attorneys' fees as provided by 35 U.S.C. § 285;

E. Such other and further relief as this Court deems just and equitable, except that Henrob specifically requests that no injunctive relief be entered against BMW AG, BMW NA, Rolls-Royce Ltd., and/or Rolls-Royce NA.

**DEMAND FOR JURY TRIAL**

Henrob hereby demands a jury trial of any issues triable of right by a jury.

Dated: June 29, 2006

Respectfully submitted,

s/ Lauren A. Degnan

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**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that on June 29, 2006, I caused to be filed electronically the foregoing **HENROB'S FIRST AMENDED COMPLAINT** with the Clerk of the Court for the Eastern District of Michigan using the ECF System, which will send notification to the registered participants of the ECF System as listed in the Court's Notice of Electronic Filing.

I also caused this document to be served on counsel listed below by First Class U.S. Mail:

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