UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

07-61133-CIV-COHN/SNOW

BENNETT MARINE, INC.,
a Florida corporation,

Plaintiff,

v.

RINKER BOAT COMPANY,
a Delaware limited liability company,
KIM SLOCUM, an individual, and
JOHN RINKER, an individual,

Defendants.
_____/

COMPLAINT
(Patent Infringement)

Plaintiff Bennett Marine, Inc. ("Bennett Marine"), by undersigned counsel, sues Defendants Rinker Boat Company ("Rinker"), Kim Slocum and John Rinker and states as follows:

The Parties

1. Bennett Marine is a Florida corporation with its principal place of business in Deerfield Beach, Florida. Bennett Marine designs, manufactures and sells trim tab systems for use on powerboats.

2. Rinker is a Delaware limited liability company with its principal place of business in Indiana. Rinker manufactures and sells powerboats, including powerboats that utilize trim tab systems.

3. Kim Slocum is the president of Rinker and directs and/or controls the conduct of Rinker as alleged herein.

4. John Rinker is the former owner of Rinker and directed and/or controlled the conduct of Rinker as alleged herein prior to the sale of Rinker to its present owners.

Jurisdiction and Venue

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a) in that this is an action arising under the patent laws of the United States, more particularly, 35 U.S.C. § 271 *et seq.*

6. This Court has personal jurisdiction over Rinker in that (a) Rinker conducts business in Florida, and, more particularly, in the Southern District of Florida; (b) Rinker purchases infringing trim tab systems in Florida, and, more particularly, in the Southern District of Florida; (c) Rinker ships powerboats that utilize the infringing trim tab systems into Florida, and, more particularly, into the Southern District of Florida; (d) Rinker representatives routinely come to Florida, and, more particularly, to the Southern District of Florida, to promote the sale of powerboats that utilize the infringing trim tab system; and (e) Rinker sells powerboats that utilize the infringing trim tab systems to purchasers in Florida, and, more particularly, in the Southern District of Florida.

7. This Court has personal jurisdiction over Kim Slocum pursuant to Florida's long-arm statute, Fla. Stat. § 48.193(b), in that he is the moving, active and conscious force that directed Rinker's infringing activities in this State.

8. This Court has personal jurisdiction over John Rinker pursuant to Florida's long-arm statute, Fla. Stat. § 48.193(b), in that he was the moving, active and conscious force that

directed Rinker's infringing activities in this State prior to the sale of Rinker to its present owners in or about July 2004.

9. Venue as to Rinker is proper in this district pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(b) in that, as a result of the above-described activities, Rinker is deemed to reside within this district. Venue is proper in this district as to Kim Slocum and John Rinker in that the venue provisions for a corporation set forth in 28 U.S.C. §§ 1391(b) and 1400(b) apply equally to corporate officers and/or owners who direct and control the infringing conduct of a corporate defendant such as Rinker.

General Allegations

10. On May 19, 1992, United States Patent No. 5,113,780 ("the '780 Patent"), entitled "Automatic boat trim tab control," was issued to Blake J. Bennett et al. Thereafter, Blake J. Bennett assigned the '780 Patent to Bennett Marine. A true and correct copy of the '780 Patent is attached hereto as Exhibit 1.

11. Among other things, the '780 Patent teaches a trim tab system wherein the trim tabs automatically return to their fully retracted position upon the termination or removal of power to the boat's engine.

12. Bennett Marine is the owner of all right, title and interest in and to the '780 Patent.

13. In or about 2002, a competitor of Bennett Marine, Lenco Marine, Inc. ("Lenco"), a Florida corporation with its principal place of business in Stuart, Florida, began manufacturing, marketing and selling trim tab systems that directly infringe the '780 Patent.

14. Bennett Marine provided notice of the infringement to Lenco, and the parties thereafter attempted to resolve their dispute pursuant to a Settlement Agreement dated February 25, 2003.

15. Among other things, the Settlement Agreement required Lenco to modify all of its instruction manuals, brochures, wiring diagrams and other materials to ensure that the Lenco trim tab system would not be installed in such a way that the trim tabs automatically return to their fully retracted position upon the termination or removal of power to the boat's engine. In addition, Lenco was required to notify all of its customers that the Lenco trim tab systems must no longer be wired or installed in such a way that the trim tabs automatically return to their fully retracted position upon termination or removal of power to the boat's engine.

16. In or about 2002, Rinker began purchasing trim tab systems from Lenco, including trim tab systems with an automatic retraction feature. Rinker installed and wired the Lenco trim tab systems on Rinker boats in such a manner that the trim tabs automatically returned to their fully retracted position upon the termination or removal of power to the boat's engine.

17. Thereafter, in or about 2003, pursuant to the Settlement Agreement, Lenco was required to notify Rinker of the need to install and wire the Lenco trim tab systems in such a manner that the trim tabs could not automatically return to their fully retracted position upon the termination or removal of power to the boat's engine so as not to infringe on the '780 Patent.

18. Despite having knowledge that Rinker was installing and wiring Lenco trim tab systems in a manner that infringed the '780 Patent, Rinker continued installing and wiring the Lenco trim tab systems in such a manner that the trim tabs automatically return to their fully retracted position upon the termination or removal of power to the boat's engine.

19. On November 23, 2004, Bennett Marine provided written notice directly to Rinker, advising Rinker of the '780 patent, of Bennett Marine's ownership of the '780 Patent and its rights thereunder, and of the fact that Rinker's conduct – particularly the installation and wiring of Lenco trim tab systems in such a manner that the trim tabs automatically return to their fully retracted position upon termination or removal of power to the boat's engine, and the subsequent marketing, promotion, distribution and sale of boats that utilize said trim tab systems – infringe the '780 Patent. Bennett Marine demanded that Rinker cease and desist from engaging in this infringing conduct.

20. Despite this notification, Rinker continued installing and wiring Lenco trim tab systems in such a manner that the trim tabs automatically returned to their fully retracted position upon termination or removal of power to the boats engine, and continued marketing, selling and distributing boats, in Florida and elsewhere, that utilize the infringing trim tab systems.

21. Upon information and belief, at all relevant times up to and including the time that John Rinker sold Rinker to its current owners, John Rinker, as well as other past or present officers or employees of Rinker who may be made party to this lawsuit at a later date, was the moving, active and conscious force behind Rinker's intentionally infringing conduct as aforesaid.

22. Upon information and belief, at all relevant times from the time John Rinker sold Rinker to the present, Kim Slocum was the moving, active and conscious force who directed Rinker's intentionally infringing conduct as aforesaid.

23. Bennett Marine has never granted Rinker any license, or entered into any other type of agreement with Rinker, or authorized Rinker in any way, to install, wire, modify,

manufacture, market or sell trim tab systems wherein the trim tabs automatically return to their fully retracted position upon termination or removal of power to the boat's engine.

24. Bennett Marine has retained the undersigned to provide legal representation in this matter and is obligated to pay the undersigned's reasonable fees and costs incurred in connection with said representation.

25. All conditions precedent to this action have been performed, satisfied or waived.

Count I – Patent Infringement Against Rinker

26. Bennett Marine realleges and incorporates by reference the allegations in paragraphs 1-25 above as though fully set forth herein.

27. At all relevant times, Rinker has installed and wired trim tab systems in its boats in a manner that infringes the '780 Patent.

28. At all relevant times, Rinker has marketed, sold and distributed boats with the infringing trim tab systems within the State of Florida and elsewhere.

29. At all relevant times, Rinker engaged in the aforesaid conduct despite notice and actual knowledge of the '780 Patent and of Bennett Marine's rights thereunder.

30. At all relevant times, Rinker's conduct as aforesaid was deliberate, knowing, willful and intentional.

31. Rinker's infringing conduct has damaged Bennett Marine through, among other things, lost sales, lost reputation, and diminished value of the '780 patent.

32. Upon information and belief, Rinker will continue to infringe the '780 Patent, causing irreparable injury to Bennett Marine, unless enjoined by this Court.

33. Bennett Marine has no adequate remedy at law.

Count II – Patent Infringement Against Kim Slocum

34. Bennett Marine realleges and incorporates by reference the allegations in paragraphs 1-25 above as though fully set forth herein.

35. Upon information and belief, at all relevant times from the time John Rinker sold Rinker to the present, Kim Slocum was the moving, active and conscious force who directed Rinker's conduct as aforesaid.

36. Upon information and belief, at all relevant times from the time John Rinker sold Rinker to the present, Kim Slocum was personally responsible for Rinker's decision to continue installing and wiring Lenco trim tab systems in a manner that infringes the '780 patent, and to continue marketing, selling and distributing boats that utilize the infringing trim tab systems.

37. Upon information and belief, at all relevant times, Kim Slocum engaged in the aforesaid conduct despite notice and actual knowledge of the '780 Patent and of Bennett Marine's rights thereunder.

38. Upon information and belief, Kim Slocum's conduct as aforesaid was deliberate, knowing, willful and intentional.

39. The aforesaid conduct of Kim Slocum has damaged Bennett Marine through, among other things, lost sales, lost reputation, and diminished value of the '780 patent.

39. Upon information and belief, Kim Slocum will continue to cause Rinker to infringe the '780 Patent, causing irreparable injury to Bennett Marine, unless enjoined by this Court.

40. Bennett Marine has no adequate remedy at law.

Count III – Patent Infringement Against John Rinker

41. Bennett Marine realleges and incorporates by reference the allegations in paragraphs 1-25 above as though fully set forth herein.

42. Upon information and belief, at all relevant times up to and including the time that John Rinker sold Rinker to its current owners, John Rinker was the moving, active and conscious force who directed Rinker's conduct as aforesaid.

43. Upon information and belief, at all relevant times up to and including the time that John Rinker sold Rinker to its current owners, John Rinker was personally responsible for Rinker's decision to continue installing and wiring Lenco trim tab systems in a manner that infringes the '780 patent, and to continue marketing, selling and distributing boats that utilize the infringing trim tab systems.

44. Upon information and belief, at all relevant times up to and including the time that John Rinker sold Rinker to its current owners, John Rinker engaged in the aforesaid conduct despite notice and actual knowledge of the '780 Patent and of Bennett Marine's rights thereunder.

45. Upon information and belief, John Rinker's conduct as aforesaid was deliberate, knowing, willful and intentional.

46. The aforesaid conduct of John Rinker has damaged Bennett Marine through, among other things, lost sales, lost reputation, and diminished value of the '780 patent.

WHEREFORE, Bennett Marine prays for the following relief:

(a) A judgment that Rinker, Kim Slocum and/or John Rinker have infringed and/or are presently infringing the '780 Patent;

(b) Temporary and permanent injunctive relief enjoining Rinker, Kim Slocum, and all persons or entities acting by or under their authority and control, from installing and/or wiring trim tab systems in Rinker boats in any manner that infringes the '780 Patent, and from marketing, distributing and selling boats that utilize trim tab systems that infringe the '780 Patent;

(c) Temporary and permanent injunctive relief requiring Rinker to re-install and/or re-wire the trim tab systems in every boat currently in Rinker's possession or under its control so that the trim tab systems do not infringe the '780 Patent;

(d) An accounting from Rinker as to all profits derived from the sale of products that utilize or utilized infringing trim tab systems;

(e) An accounting from Kim Slocum as to all salary, bonuses and other forms of compensation attributable to the sale of products that utilize or utilized infringing trim tab systems, to the extent that Rinker accounted for said salary, bonuses and other forms of compensation as expenses to offset Rinker's profits;

(f) An accounting from John Rinker as to all salary, bonuses and other forms of compensation attributable to the sale of products that utilize or utilized infringing trim tab systems, to the extent that Rinker accounted for said salary, bonuses and other forms of compensation as expenses to offset Rinker's profits, and a further accounting of the proceeds from the sale of Rinker in or about July 2004 to the extent said proceeds were based upon, arose from, or otherwise related to Rinker's sale of products that utilize or utilized infringing trim tab systems;

(g) An award of treble damages as to which Rinker, Kim Slocum and John Rinker are jointly and severally liable;

(h) An award of prejudgment and post-judgment interest;

(i) An award of Bennett Marine's costs and reasonable attorney's fees incurred in connection with these proceedings; and

(j) Such other and further relief as the Court deems proper and just.

Dated this 10th day of August, 2007.

Respectfully submitted,

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Counsel for Bennett Marine, Inc.

EXHIBIT 1

US005113780A

United States Patent [19]

Bennett et al.

[11] Patent Number: 5,113,780

[45] Date of Patent: May 19, 1992

[54] AUTOMATIC BOAT TRIM TAB CONTROL

[75] Inventors: Blake J. Bennett, Boca Raton, Fla.; David A. Hagstrom, Endicott, N.Y.

[73] Assignee: Bennett Marine, Incorporated, Deerfield Beach, Fla.

[21] Appl. No.: 575,193

[22] Filed: Aug. 30, 1990

[51] Int. Cl.[5] B63B 39/06

[52] U.S. Cl. 114/286

[58] Field of Search 114/285, 286, 126, 287, 114/275, 276, 291, 277, 284

[56] References Cited

U.S. PATENT DOCUMENTS

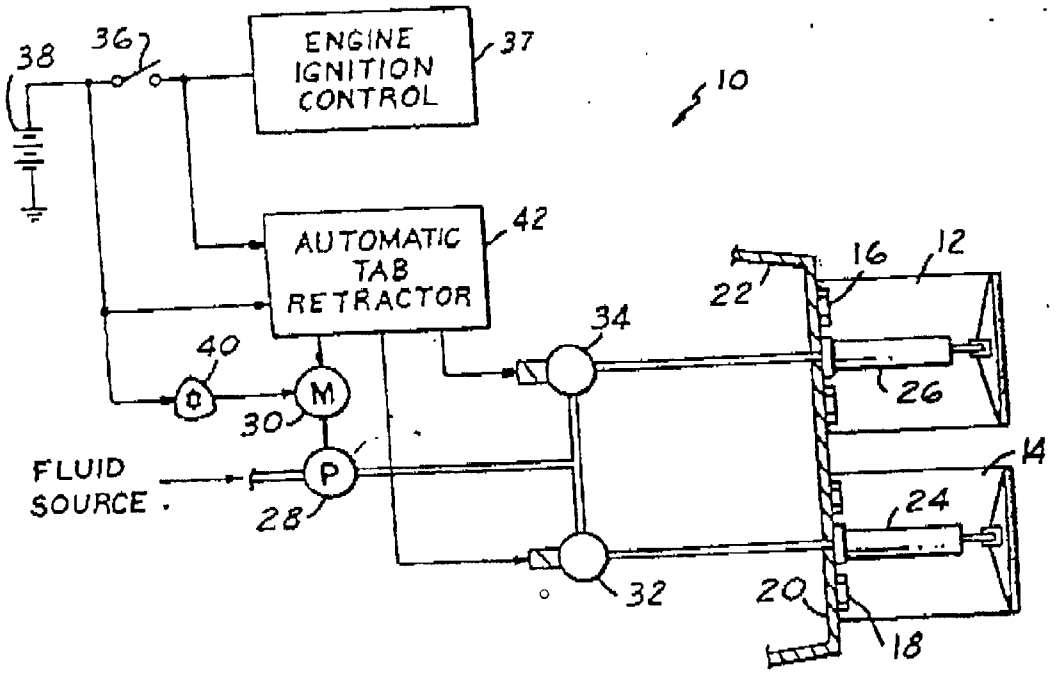
3,641,965	2/1972	Schmiedel	114/286
3,695,204	10/1972	Bennett	114/286
4,261,278	4/1981	Gaudin	114/286
4,762,079	8/1988	Takeuchi et al.	114/283

Primary Examiner—Jesús D. Sotelo
Assistant Examiner—Stephen P. Avila
Attorney, Agent, or Firm—Barnes, Kisselle, Raisch, Choate, Whittemore & Hulbert

[57] ABSTRACT

A boat trim control system that includes a pair of trim tabs pivotally mounted to the stern of a boat hull, and an engine responsive to application of electrical ignition power for powering the boat through the water. A pair of fluid actuators extend between the hull and the respective trim tabs for selectively and adjustably moving the tabs between fully extended and fully retracted positions. A fluid drive is responsive to a boat operator for selectively adjusting positions of the trim tabs independently of each other to maintain a desired attitude of the boat hull. Electronic control circuitry is responsive to removal of ignition power from the engine for operating the fluid drive and energizing the actuators for a predetermined time duration so as to move boat trim tabs to the fully retracted positions upon removal of ignition power from the engine.

9 Claims, 1 Drawing Sheet



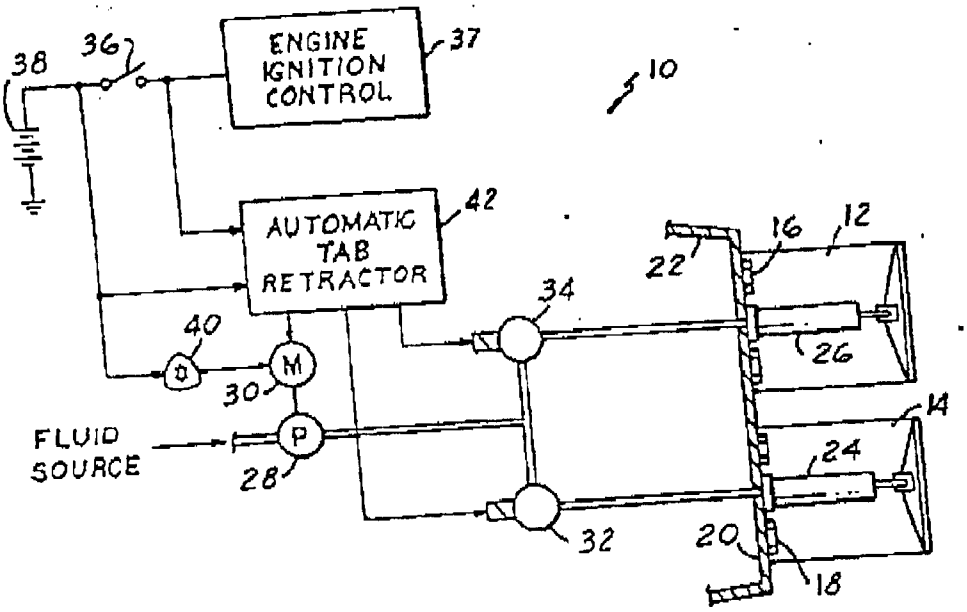

ENGINE IGNITION CONTROL
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FIG. 1

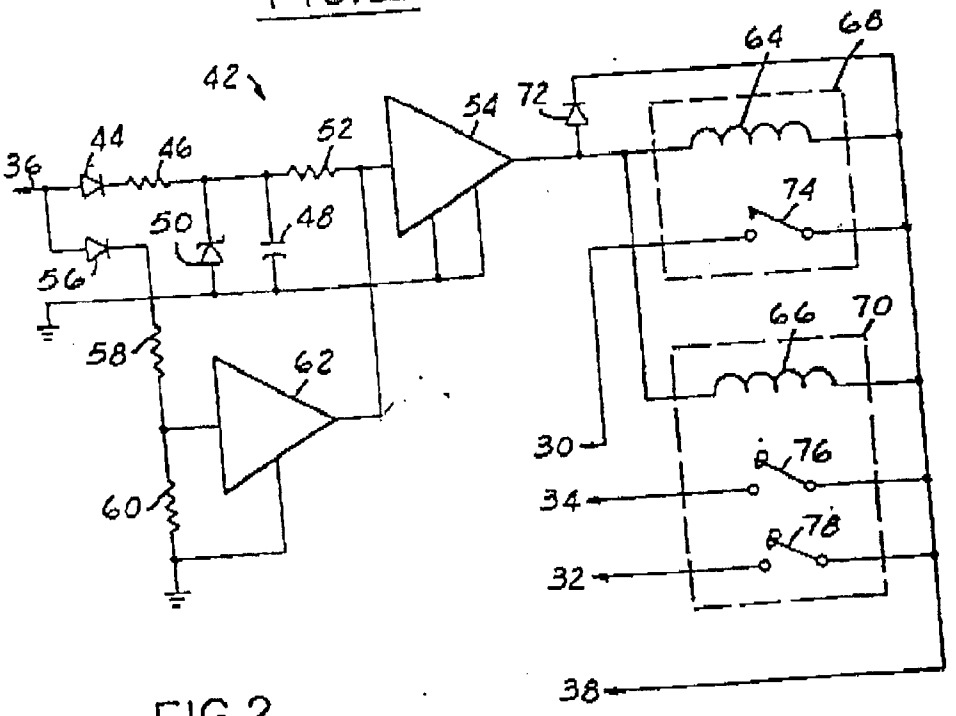
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FIG. 2

AUTOMATIC BOAT TRIM TAB CONTROL

The present invention is directed to control of trim tabs on power boats, and more particularly to automatic positioning of the trim tabs at a fully retracted position upon removal of ignition power from the boat engine.

BACKGROUND AND OBJECTS OF THE INVENTION

Devices are conventionally employed on power boats for selectively adjusting or trimming boat attitude under varying load and sea conditions as the boat is powered through the water. For example, U.S. Pat. No. 3,695,204 discloses a trim control system in which a pair of trim tabs are pivotally mounted at laterally spaced positions on the boat stern. A pair of hydraulic fluid actuators extend between the boat hull and the respective trim tabs, and are connected to a valve and pump system coupled to an operator control for selectively adjusting positions of the respective trim tabs independently of each other. Other attitude trim control devices are known in the art.

Although the trim control system disclosed in the above-noted patent has enjoyed substantial commercial acceptance and success, improvements remain desirable. For example, when the engine is shut down, the trim tabs remain in the positions last selected by the operator. When the engine is restarted for powering the boat, the operator may not be aware of the positions of the trim tabs. Further, if the trim tabs and actuators remain extended, hydraulic pressure is maintained in the trim tab actuators during non-use, and unnecessary marine growth may occur on the actuating cylinders. There is also a risk of damage to the trim tabs from fork lifts, trailers and dry storage racks.

A general object of the present invention, therefore, is to provide a trim tab control system that includes facility for automatically returning the trim tabs to the fully retracted positions when engine operation is terminated. Another and more specific object of the present invention is to provide a trim tab control system of the described character that can be installed in the aftermarket on existing power boats by relatively unskilled personnel.

SUMMARY OF THE INVENTION

A power boat trim control system in accordance with the present invention includes a boat having a hull and an engine for powering the boat through the water. At least one device such as a trim tab is movably mounted to the hull for trimming attitude of the boat as the hull is propelled through the water. The trim tab is selectively adjustable by an operator to maintain desired boat attitude under varying load and sea conditions. Electronic control circuitry is coupled to the trim tab and to the engine for automatically moving the trim tab to a predetermined position—e.g., a fully retracted position—upon removal of power from the engine.

In the preferred embodiment of the invention, the trim control mechanism comprises a pair of trim tabs pivotally mounted to the hull at laterally spaced positions on the stern. A pair of fluid actuators extend between the hull and the respective trim tabs for selectively moving each tab to any desired position between a fully extended and a fully retracted position. A fluid drive is responsive to the boat operator for selectively adjusting positions of the trim tabs independently of each other to maintain a desired attitude of the boat hull. The electronic control circuit is coupled to the fluid drive and is responsive to removal of electrical ignition power from the engine for operating both actuators simultaneously for a predetermined time duration so as to move both trim tabs to the fully retracted positions upon removal of ignition power from the engine.

The boat trim tabs are thus returned to the fully retracted positions each time power is removed from the engine. In this way, the boat operator will be aware of initial trim tab position each time power is applied to the engine even when the boat is not equipped trim tab position indicating devices. With the trim tabs and actuators fully retracted, the actuators are not subjected to hydraulic fluid pressure during storage, and marine growth on the actuators is reduced. Also reduced is the likelihood of damage to one or both of the trim tabs during storage and/or transport of the boat.

BRIEF DESCRIPTION OF THE DRAWING

The invention, together with additional objects, features and advantages thereof, will be best understood from the following description, the appended claims and the accompanying drawing in which:

FIG. 1 is a functional block diagram of a power boat trim control system in accordance with a presently preferred embodiment of the invention; and

FIG. 2 is an electrical schematic diagram of the automatic tab retraction module in the functional block diagram of FIG. 1.

DETAILED DESCRIPTION OF PREFERRED EMBODIMENT

FIG. 1 illustrates a power boat trim control system 10 in accordance with a presently preferred embodiment of the invention as comprising a pair of trim tabs 12,14 pivotally mounted by respective hinges 16,18 on the stern 20 of a boat hull 22. A pair of hydraulic actuators 24,26 are respectively mounted on stern 20 and have actuator rods that extend to trim tabs 12,14. A fluid pump 28 is powered by an electrical motor 30 for supplying hydraulic fluid under pressure from a fluid source to actuators 24,26 through respective solenoid-operated flow control valves 32,34. An ignition key switch 36 selectively connects the ignition control system 37 of the boat engine to a source of electrical power, such as a battery 38. An operator switch 40 is coupled to battery 38 for selectively applying electrical control signals to motor 30 and valves 32,34 for adjusting position of trim tabs 12,14 independently of each other. To the extent thus far described, system 10 is of conventional construction, with the electrohydraulic trim tab control being disclosed in detail in above-noted U.S. Pat. No. 3,695,204.

In accordance with the present invention, an electronic control circuit 42 (FIGS. 1 and 2) is connected to motor 30 and valves 32,34 for automatically retracting actuators 24,26 and tabs 12,14 upon removal of ignition power from engine ignition control 37. More specifically, the power input to engine ignition control 37, on the normally open side of switch 36, is connected within automatic tab retractor circuit 42 through a diode 44 and a resistor 46 across an energy storage capacitor 48. A zener diode 50 is connected across capacitor 48 for limiting the voltage stored thereon. Capacitor 48 is connected through a resistor 52 to the input of an amplifier 54. The normally open contact of switch 36 is also connected through a diode 56 and a voltage divider

58,60 to the input of a second amplifier 62. Amplifiers 54 and 62 may be Darlington switches.

The output of amplifier 54 is connected through the coils 64,66 of a pair of electronic relays 68,70 to battery 38 at the common contact of switch 36 (FIG. 1), so that power is applied to relays 68,70 independently of switch 36. A diode 72 is connected across coils 64,66 for limiting voltage spikes. Relay 68 has a normally open contact set 74 responsive to current through coil 64 for connecting motor 30 to power source 38 independently of switch 40. Likewise, relay 70 has a pair of normally open contact sets 76,78 responsive to current through coil 66 for connecting solenoid valves 32,34 to battery 38 independently of switch 40.

In operation, with ignition switch 36 closed and ignition power thus applied to control circuit 37, power is likewise supplied to automatic tab retractor circuit 42, so that the input to amplifier 62 is high and voltage is stored at substantially battery potential on capacitor 48. The output of amplifier 62 is at a low voltage state, so as to inhibit operation of amplifier 54 independently of potential across capacitor 48. The output of amplifier 54 is therefore at a high voltage level, and no current is conducted through relay coils 64,66. Operation of motor 30 and valves 32,34 is thus controlled by switch 40 during normal boat operation.

When ignition switch 36 is opened so as to remove power from control circuit 37, the input to amplifier 62 switches to a low voltage potential, and the output thereof switches to a high or open circuit condition. Amplifier 62 thus no longer inhibits operation of amplifier 54. Capacitor 48 therefore raises the input of amplifier 54 to a high voltage state, and discharges through resistor 52 into the input of amplifier 54 for a predetermined time duration corresponding to the values of capacitor 48 and resistor 52. During this capacitor discharge time, the output of amplifier 54 assumes a low voltage state and draws current through coils 64,66 of relays 68,70, closing relay contact sets 74,76 and 78, and applying power through the relay contacts to pump motor 30 and valves 32,34. The time duration of discharge of capacitor 48 through resistor 52 and amplifier 54 is selected to be sufficient to return both trim tabs 12,14 simultaneously to the fully retracted positions independently of the positions at which the trim tab had been set during normal operation.

Thus, upon opening of switch 36, both trim tabs 12,14 and actuators 24,26 are moved to the fully retracted positions. When power is again applied to the ignition control circuitry, the trim tab positions may again be selectively adjusted by the operator through switch 40. It will be appreciated, of course, that the principles of the invention apply to electrical or pneumatic actuators of trim tabs. In addition to the preferred hydraulic implementation. The invention may be employed in conjunction with any number of trim tabs on a given boat. The predetermined actuation time of amplifier 62, determined by capacitor 48 and resistor 52, varies with the number of trim tabs and cylinders. For example, a fifteen second duration would be appropriate for two tabs and one actuator per tab, whereas a duration of twenty-two to twenty-five seconds would be appropriate for a boat having two tabs and two actuators per tab.

We claim:

1. A boat trim control system that comprises:

a boat having a hull and an engine for powering said boat,

means for selectively applying electrical power to said engine for powering the boat,

means movably mounted to said hull for trimming attitude of said boat as said hull is propelled through the water,

means carried by said hull and responsive to a boat operator for selectively adjusting position of said trimming means to maintain desired attitude under varying conditions, and

means coupled to said trimming means and to said engine, and responsive to removal of electrical power from said engine, for automatically moving said trimming means to a predetermined position with respect to said hull upon removal of power at said engine.

2. The system set forth in claim 1 wherein said means response to removal of electrical power comprises means for sensing removal of electrical ignition energy from said engine to move said trimming means to said predetermined position.

3. The system set forth in claim 1 wherein said selectively-positioning means comprises actuator means extending between said hull and said trimming means for moving said trimming means toward and away from said predetermined position, and wherein said automatically-moving means comprises means for applying power to said actuator means for a predetermined time duration following removal of power at said engine sufficient to move said trimming means to said predetermined position independently of position of said trimming means when power is removed from said engine.

4. The system set forth in claim 3 wherein said actuator means comprises a fluid actuator, said selectively-positioning means comprising a pump and a valve for selectively applying fluid under pressure to extend and retract said actuator, said automatically-positioning means comprising means for operating said pump and valve so as to move said actuator and trimming means to a fully retracted position.

5. The system set forth in claim 4 wherein said attitude-trimming means comprises a pair of laterally spaced trim tabs pivotally mounted to said hull, said selectively-positioning means comprising a pair of said actuators respectively coupled to said trim tabs, a pump and a pair of said valves for selectively extending and retracting said actuators independently of each other, and wherein said automatically-positioning means comprises means for operating said motor and valves simultaneously to move said actuators and trim tabs to said fully retracted position.

6. The system set forth in claim 3 wherein said means responsive to removal of electrical power comprises means for sensing removal of electrical ignition energy from said engine to move said trimming means to said predetermined position.

7. The system set forth in claim 6 wherein said automatically-moving means comprises an electronic switch connected between said source of electrical power and said actuator means, and means for closing said switch for said predetermined time duration upon removal of ignition power from said engine.

8. The system set forth in claim 7 wherein said switch-closing means comprises electrical energy storage means, means for storing electrical energy on said storage means as long as ignition power is supplied to said engine, and means for discharging said energy storage means over said predetermined time duration upon removal of ignition energy from said engine.

9. A boat trim control system that comprises:

a boat having a hull with a stern and an engine,

at least one trim tab pivotally mounted to said hull at said stern,

an actuator extending between said hull and said tab for selectively moving said tab between fully extended and retracted positions,

means including a drive responsive to an operator for selectively adjusting position of said trim tab to obtain a desired attitude of said hull,

means for selectively applying electrical ignition power to said engine for powering said boat, and

means coupled to said drive and responsive to removal of electrical power from said engine for operating said actuator for a predetermined time duration so as to move said trim tab to said fully retracted position upon removal of ignition power from said engine.

* * * * *

JS 44 (Rev. 11/05)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

Bennett Marine, Inc.

(b) County of Residence of First Listed Plaintiff Broward
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

James A. Gale, Esq., Stephanie C. Alvarez, Esq.
Feldman Gale, P.A., 2 South Biscayne Blvd., 30th Floor
Miami, Fl. 33131 (305) 358-5001

DEFENDANTS

Rinker Boat Company, a Delaware limited liability company, Kim Slocum, an individual, and John Rinker, an individual

County of Residence of First Listed Defendant Kosciusko
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.

Attorneys (If Known)

(d) Check County Where Action Arose: ☐ MIAMI- DADE ☐ MONROE ☑ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff
☑ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

Broward | 07-61133-CV - Cohn | Snow

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	☐ 610 Agriculture	☐ 422 Appeal 28 USC 158	☐ 400 State Reapportionment
☐ 120 Marine	☐ 310 Airplane	☐ 362 Personal Injury - Med. Malpractice	☐ 620 Other Food & Drug	☐ 423 Withdrawal 28 USC 157	☐ 410 Antitrust
☐ 130 Miller Act	☐ 315 Airplane Product Liability	☐ 365 Personal Injury - Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	☐ 430 Banks and Banking
☐ 140 Negotiable Instrument	☐ 320 Assault, Libel & Slander	☐ 368 Asbestos Personal Injury Product Liability	☐ 630 Liquor Laws	☐ 820 Copyrights	☐ 450 Commerce
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 330 Federal Employers' Liability	PERSONAL PROPERTY	☐ 640 R.R. & Truck	☑ 830 Patent	☐ 460 Deportation
☐ 151 Medicare Act	☐ 340 Marine	☐ 370 Other Fraud	☐ 650 Airline Regs.	☐ 840 Trademark	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)	☐ 345 Marine Product Liability	☐ 371 Truth in Lending	☐ 660 Occupational Safety/Health		☐ 480 Consumer Credit
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 350 Motor Vehicle	☐ 380 Other Personal Property Damage	☐ 690 Other		☐ 490 Cable/Sat TV
☐ 160 Stockholders' Suits	☐ 355 Motor Vehicle Product Liability	☐ 385 Property Damage Product Liability	LABOR	SOCIAL SECURITY	☐ 810 Selective Service
☐ 190 Other Contract	☐ 360 Other Personal Injury		☐ 710 Fair Labor Standards Act	☐ 861 HIA (1395ff)	☐ 850 Securities/Commodities/ Exchange
☐ 195 Contract Product Liability			☐ 720 Labor/Mgmt. Relations	☐ 862 Black Lung (923)	☐ 875 Customer Challenge 12 USC 3410
☐ 196 Franchise			☐ 730 Labor/Mgmt.Reporting & Disclosure Act	☐ 863 DIWC/DIWW (405(g))	☐ 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	☐ 740 Railway Labor Act	☐ 864 SSID Title XVI	☐ 891 Agricultural Acts
☐ 210 Land Condemnation	☐ 441 Voting	☐ 510 Motions to Vacate Sentence	☐ 790 Other Labor Litigation	☐ 865 RSI (405(g))	☐ 892 Economic Stabilization Act
☐ 220 Foreclosure	☐ 442 Employment	Habeas Corpus:	☐ 791 Empl. Ret. Inc. Security Act	FEDERAL TAX SUITS	☐ 893 Environmental Matters
☐ 230 Rent Lease & Ejectment	☐ 443 Housing/ Accommodations	☐ 530 General		☐ 870 Taxes (U.S. Plaintiff or Defendant)	☐ 894 Energy Allocation Act
☐ 240 Torts to Land	☐ 444 Welfare	☐ 535 Death Penalty		☐ 871 IRS—Third Party 26 USC 7609	☐ 895 Freedom of Information Act
☐ 245 Tort Product Liability	☐ 445 Amer. w/Disabilities - Employment	☐ 540 Mandamus & Other			☐ 900Appeal of Fee Determination Under Equal Access to Justice
☐ 290 All Other Real Property	☐ 446 Amer. w/Disabilities - Other	☐ 550 Civil Rights			☐ 950 Constitutionality of State Statutes
	☐ 440 Other Civil Rights	☐ 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)

☑ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed- (see VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S). (See instructions second page):

a) Re-filed Case ☐ YES ☑ NO b) Related Cases ☑ YES ☐ NO

JUDGE Marra DOCKET NUMBER 04-60326

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause **(Do not cite jurisdictional statutes unless diversity)**:

35 USC 271 - Patent Infringement

LENGTH OF TRIAL via 3-5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☑ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

DATE August 10, 2007

FOR OFFICE USE ONLY

AMOUNT 350 RECEIPT # 964660 IFP