

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNRECORDED

APR 19 2001

THE CHAMBERLAIN GROUP, INC.,
a Connecticut corporation,

Plaintiff,

v.

WAYNE-DALTON CORPORATION,
an Ohio corporation,

Defendant.

JUDGE JOAN H. LEFKOW

Civil Action No.

01C 2754

JURY DEMAND

MAGISTRATE JUDGE NOLAN

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U.S. DISTRICT COURT

COMPLAINT

Plaintiff, The Chamberlain Group, Inc. ("Chamberlain"), complains against Defendant, Wayne-Dalton Corporation ("Wayne-Dalton"), as follows:

THE PARTIES

1. Chamberlain is a corporation incorporated under the laws of the State of Connecticut, with its principal place of business in Elmhurst, Illinois. Chamberlain manufactures and sells garage door operators.

2. Wayne-Dalton is a corporation incorporated under the laws of the State of Ohio, with its principal place of business in Mt. Hope, Ohio. Wayne-Dalton conducts business in Illinois.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 271 et seq., and for federal trademark infringement, false designation of origin, federal trademark dilution, unfair competition arising under 15 U.S.C. § 1051 et seq., and violation of the Illinois Consumer Fraud and Deceptive Trade Practices Act (815 ILCS 505/2) and the Illinois

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Uniform Deceptive Trade Practices Act (815 ILCS 510/2). This Court has subject matter jurisdiction over this matter under 15 U.S.C. §1121, 15 U.S.C. §1125(a), 15 U.S.C. §1125(c), and 28 U.S.C. §1338.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400 because Wayne-Dalton is subject to personal jurisdiction in this district. Wayne-Dalton has committed acts giving rise to the claims of infringement in this district.

COUNT I
INFRINGEMENT OF '364 PATENT

5. On June 7, 1988, U.S. patent No. 4,750,118 (“the ‘118 patent”) entitled “Coding System for Multiple Transmitters and a Single Receiver for a Garage Door Opener” was duly and legally issued to Chamberlain Manufacturing Company, on an application filed by Carl Heitschel, Colin Willmott and Wayne Schindler. On October 29, 1996, the ‘118 patent was duly and legally reissued to Chamberlain as Reissue Patent No. Re. 35,364 (“the ‘364 patent”).

6. Chamberlain is the owner of all right, title and interest in the ‘364 patent.

7. Wayne-Dalton, by itself and/or through its subsidiaries, manufactures and sells garage door openers within the United States. Wayne-Dalton, by itself and through its subsidiaries, has been, and is, willfully infringing the ‘364 patent by: making, using, offering to sell, and/or selling within the United States; by inducing others to make, use, offer to sell, and/or sell those inventions patented in the ‘364 patent within the United States; and/or by contributing to the infringement by others of the ‘364 patent. Unless enjoined by the Court, Wayne-Dalton will continue to infringe, induce the infringement of, and/or contributorily infringe the ‘364 patent.

8. The required statutory notice has been placed on garage door openers manufactured and sold under the '118 and '364 patents, and was sent a notice of infringement of such patents.

COUNT II
INFRINGEMENT OF '703 PATENT

9. On May 16, 2000, the '118 patent was duly and legally reissued to Chamberlain as Reissue Patent No. 36,703 ("the '703 patent").

10. Chamberlain is the owner of all right, title and interest in the '703 patent.

11. Wayne-Dalton, by itself and through its subsidiaries, manufactures and sells garage door openers within the United States. Wayne-Dalton, by itself and/or through its subsidiaries, has been and is willfully infringing the '703 patent: by making, using, offering to sell, and/or selling those inventions patented in the '703 patent within the United States; by inducing others to infringe the '703 patent; and by contributing to the infringement by others of the '703 patent. Unless enjoined by the Court, Wayne-Dalton will continue to infringe, induce the infringement of, and contributorily infringe the '703 patent.

12. The required statutory notice has been placed on garage door openers manufactured and sold under the '118 and '703 patents, and was sent a notice of infringement of such patents.

COUNT III
INFRINGEMENT OF '224 PATENT

13. On May 12, 1998, U.S. Patent No. 5,751,224 ("the '224 patent") entitled "Code Learning System for a Movable Barrier Operator" was duly and legally issued to Chamberlain, on an application filed by James J. Fitzgibbon.

14. Chamberlain is the owner of all right, title and interest in the '224 patent.

15. Wayne-Dalton, by itself and/or through its subsidiaries, manufactures and sells garage door openers within the United States. Wayne-Dalton, by itself and through its subsidiaries, has been, and is, willfully infringing the '224 patent by: making, using, offering to sell, and/or selling within the United States; by inducing others to make, use, offer to sell, and/or sell those inventions patented in the '224 patent within the United States; and/or by contributing to the infringement by others of the '224 patent. Unless enjoined by the Court, Wayne-Dalton will continue to infringe, induce the infringement of, and/or contributorily infringe the '224 patent.

COUNT IV
INFRINGEMENT OF '987 PATENT

16. On July 14, 1998, U.S. Patent No. 5,780,987 ("the '987 patent") entitled "Barrier Operator Having System for Detecting Attempted Forced Entry" was duly and legally issued to Chamberlain, on an application filed by James J. Fitzgibbon and John V. Moravec. A copy of the '987 patent is attached hereto as Exhibit D.

17. Chamberlain is the owner of all right, title and interest in the '987 patent.

18. Wayne-Dalton, by itself and/or through its subsidiaries, manufactures and sells garage door operators within the United States. Wayne-Dalton, by itself and through its subsidiaries, has been, and is, willfully infringing the '987 patent by: making, using, offering to sell, and/or selling within the United States; by inducing others to make, use, offer to sell, and/or sell those inventions patented in the '987 patent within the United States; and/or by contributing to the infringement by others of the '987 patent. Unless enjoined by the Court, Wayne-Dalton will continue to infringe, induce the infringement of, and/or contributorily infringe the '987 patent.

COUNT V
FEDERAL TRADEMARK INFRINGEMENT

19. Chamberlain is the owner of all right, title and interest in the following Federal trademark registrations:

<u>Mark</u>	<u>Registration Number</u>	<u>Filing Date</u>
LIFTMASTER	863,447	June 21, 1967
LIFT-MASTER	1,781,236	November 16, 1992
GARAGE MASTER	1,401,035	November 26, 1985

Chamberlain has adopted and used the above listed marks, and all registrations are valid, in full force and effect, and incontestible under 15 U.S.C. § 1065. The above listed marks will be hereinafter referred to as the MASTER marks.

20. Chamberlain is the owner of all right, title and interest in the Federal trademark application for the mark LIFTMASTER (Serial Number 75/806471) for an expanded description of goods. This Application was filed on September 22, 1999, and was officially allowed for registration on the Principal Register on November 28, 2000.

21. The LIFTMASTER, LIFT-MASTER and GARAGEMASTER marks constitute a family of trademarks.

22. Subsequent to Chamberlain's establishment of its trademark rights, Wayne-Dalton began distributing, marketing and selling garage door products bearing the trademarks DOORMASTER and TORQUEMASTER.

23. Subsequent to Chamberlain's establishment of its trademark rights, Wayne-Dalton registered the trademark DOORMASTER (Reg. No. 2,427,098) for use connection with automatic garage door openers. This registration issued on February 6, 2001.

24. Long prior to Wayne-Dalton's adoption and use of the marks DOORMASTER and TORQUEMASTER, Chamberlain was actively engaged in interstate and foreign commerce in the business of manufacturing, distributing, advertising and selling garage door products bearing the MASTER trademarks.

25. Chamberlain has expended millions of dollars in advertising and promoting its products, and has sold millions of dollars of products bearing the MASTER trademarks in the United States and throughout the world.

26. Wayne-Dalton has adopted the TORQUEMASTER and DOORMASTER trademarks with full knowledge of Chamberlain's famous MASTER trademarks. Wayne-Dalton has used the trademarks without the express or implied consent of Chamberlain with the intent to trade and capitalize on the goodwill generated by Chamberlain's extensive and exclusive use of its MASTER family of trademarks.

27. Wayne-Dalton's adoption, use, distribution, offer for sale, and sale of goods bearing the DOORMASTER and TORQUEMASTER marks constitutes willful infringement by causing confusion, mistake or deception as to the origin of the goods among the relevant consuming public. The public is likely to believe that defendant's products originate with Chamberlain, are licensed by Chamberlain, or are sponsored by, or connected with, or related to Chamberlain.

28. The statutory notice of trademark registration has been placed on all of the goods bearing a registered MASTER mark.

29. Wayne-Dalton's unauthorized use of the DOORMASTER AND TORQUEMASTER trademarks constitutes willful infringement of each and every one of Chamberlain's registered MASTER trademarks in violation of 15 U.S.C. §1114.

COUNT VI
FALSE DESIGNATION OF ORIGIN

30. Chamberlain incorporates herein by reference paragraph nos. 19-29.

31. Wayne-Dalton's unauthorized adoption and use of the DOORMASTER and TORQUEMASTER trademarks constitutes willful violations of the Lanham Act, 15 U.S.C. §1125(a).

COUNT VII
FEDERAL TRADEMARK DILUTION

32. Chamberlain incorporates herein by reference paragraph nos. 19-29.

33. Long prior to Wayne-Dalton's adoption and use of the marks DOORMASTER and TORQUEMASTER, Chamberlain's MASTER marks became famous by reason of extensive marketing and advertising for the high quality goods bearing the MASTER marks.

34. Wayne-Dalton's unauthorized adoption and use of the DOORMASTER and TORQUEMASTER trademarks constitutes dilution of each and every one of Chamberlain's famous MASTER trademarks in violation of 15. U.S.C. § 1125(c).

COUNT VIII
UNFAIR COMPETITION

35. Chamberlain incorporates herein by reference paragraph nos. 19-28.

36. Wayne-Dalton's unauthorized adoption and use of the DOORMASTER and TORQUEMASTER trademarks constitutes willful trademark infringement, unfair competition and dilution in violation of Illinois common law.

COUNT IX
CONSUMER FRAUD AND DECEPTIVE PRACTICES ACT

37. Chamberlain incorporates herein by reference paragraph nos. 19-28.

38. Wayne-Dalton's unauthorized adoption and use of the DOORMASTER and TORQUEMASTER trademarks constitutes willful trademark infringement and unfair competition in violation of the Illinois Consumer Fraud And Deceptive Practices Act, 815 ILCS 505/2.

COUNT X
UNIFORM DECEPTIVE TRADE PRACTICES ACT

39. Chamberlain incorporates herein by reference paragraph nos. 19-28.

40. Wayne-Dalton's unauthorized adoption and use of the DOORMASTER AND TORQUEMASTER trademarks constitutes willful trademark infringement and unfair competition in violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510/2.

PRAYER FOR RELIEF

WHEREFORE, Chamberlain prays for:

1. Judgment that the '364, '703, '224, and '987 patents are each valid, enforceable and infringed by Wayne-Dalton;
2. A preliminary and permanent injunction enjoining Wayne-Dalton, its officers, agents, servants, employees and those persons acting in active concert or participation with Wayne-Dalton from infringing, inducing infringement of, or contributorily infringing each of the '364, '703, '224, and '987 patents;

3. An award of damages arising out of Wayne-Dalton's infringement, inducing infringement, or contributory infringement of each of the '364, '703, '224, and '987 patents, together with interest;

4. Judgment damages so adjudged be trebled in accordance with 35 U.S.C. § 284 and 15 U.S.C. § 1117;

5. Judgment that Chamberlain be awarded its attorneys' fees, costs and expenses incurred in this action in accordance with 35 U.S.C. § 285 and 15 U.S.C. § 1117;

6. Judgment that all rights in Chamberlain's MASTER trademarks are valid and enforceable and have been infringed by Wayne-Dalton and that Wayne-Dalton's above described acts constitute trademark infringement, false designation of origin, dilution and unfair competition in violation of the federal and state laws and regulations cited herein;

7. Judgment that Wayne-Dalton, its agents, servants, employees, successors, and assigns and all others in concert and privity with them be enjoined preliminarily during the pendency of this action and permanently thereafter from infringement of Chamberlain's trademarks, from unfairly competing with Chamberlain, and from engaging in unfair and deceptive trade practices;

8. An award of damages arising out of Wayne-Dalton's trademark infringement, false designation of origin, trademark dilution, unfair competition, and violations of Illinois state law;

9. That Wayne-Dalton be ordered to surrender for impoundment during the pendency of this action and destruction upon entry of judgment all products, nameplates, labels, advertisements, and other materials constituting unfair competition with Chamberlain's MASTER trademarks in accordance with 15 U.S.C. § 1118 ;

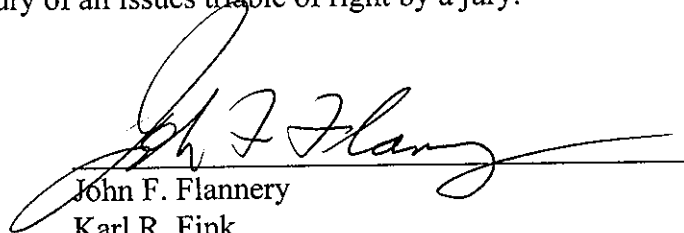
10. That this Court cancel trademark registration number 2,427,098 for the mark DOORMASTER in accordance with 15 U.S.C. § 1119; and

11. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Chamberlain demands trial by jury of all issues triable of right by a jury.

Date: April 18, 2001



John F. Flannery

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JUDGE JOAN H. LEFKOW

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS ADMINISTRATIVE JUDGE NOLAN

Civil Cover Sheet **01C 2754**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): THE CHAMBERLAIN GROUP, INC.

Defendant(s): WAYNE-DALTON CORPORATION

County of Residence:

County of Residence:

Plaintiff's Atty: John F. Flannery
Fitch, Even, Tabin & Flannery
120 South LaSalle Street, Suite
1600, Chicago, IL 60603-3406
312-577-7000

Defendant's Atty:

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U.S. DISTRICT COURT

II. Basis of Jurisdiction: **3. Federal Question (U.S. not a party)**

III. Citizenship of Principle Parties (Diversity Cases Only)

Plaintiff:- N/A
Defendant:- N/A

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **830 Patent**

VI. Cause of Action: **Patent Infringement Under 35 U.S.C. Section 271 et seq.**

VII. Requested in Complaint

Class Action: No
Dollar Demand:
Jury Demand: Yes

VIII. This case Is NOT a refiling of a previously dismissed case. (If yes case number __ by Judge
)

Signature: *John F. Flannery*
Date: *April 18, 2001*

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, print this form, sign and date it and submit it with your new civil action. **Note: You may need to adjust the font size in your browser display to make the form print properly.** Revised: 06/23/00

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

APR 19 2001

In the Matter of

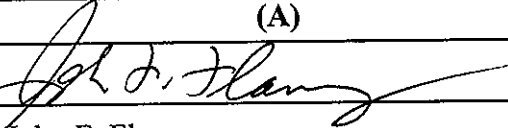
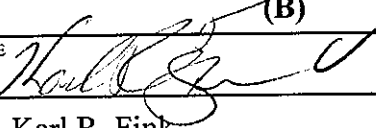
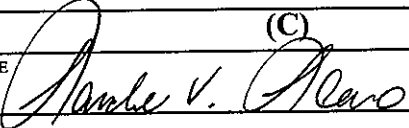
THE CHAMBERLAIN GROUP, INC. v. WAYNE-DALTON CORPORATION

Case Number: JUDGE JOAN H. LEFKOW

01C 2754

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

THE CHAMBERLAIN GROUP, INC. MAGISTRATE JUDGE NOLAN

(A)		(B)	
SIGNATURE 		SIGNATURE 	
NAME John F. Flannery		NAME Karl R. Fink	
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TELEPHONE NUMBER 312-577-7000	FAX NUMBER 312-577-7007	TELEPHONE NUMBER 312-577-7000	FAX NUMBER 312-577-7007
E-MAIL ADDRESS		E-MAIL ADDRESS	
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TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(C)		(D)	
SIGNATURE 		SIGNATURE	
NAME Sandra V. Scavo		NAME	
FIRM Fitch, Even, Tabin & Flannery		FIRM	
STREET ADDRESS Fitch, Even, Tabin & Flannery		STREET ADDRESS	
CITY/STATE/ZIP 120 South LaSalle Street, Suite 1600		CITY/STATE/ZIP	
TELEPHONE NUMBER 312-577-7000	FAX NUMBER 312-577-7007	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS		E-MAIL ADDRESS	
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