

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

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U.S. DISTRICT COURT
EVANSVILLE DIVISION

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SOUTHERN DISTRICT
OF INDIANA
LORRA A. BRIDGES
CLERK

SOP SERVICES, INC., and
BEAR ARCHERY, INC.,

Plaintiffs

vs.

CIVIL ACTION NO.

BOWTECH, INC.

3:03-CV-205 RLY - WGH

Defendant

PATENT INFRINGEMENT COMPLAINT

Plaintiffs, SOP Services, Inc. and Bear Archery, Inc. (collectively hereinafter "Bear Archery"), complain of Defendant, Bowtech, Inc. (hereinafter "BowTech"), and allege as follows:

PARTIES

1. Plaintiff, SOP Services, Inc. is a corporation organized under the laws of the State Nevada and has a principal place of business at 2325-B Renaissance Drive, Suite 10, Las Vegas, Nevada 89119.

2. Plaintiff, Bear Archery, Inc. is a corporation organized under the laws of the State of Florida, and has a principal place of business at P.O. Box 889, 817 Maxwell Avenue, Evansville, IN 47706.

3. On information and belief, Defendant, BowTech, is a corporation existing and organized under the laws of the State of Oregon, and has a principal place of business at 90554 Highway 99 North, Eugene, OR 97402.

4. BowTech can be served via its registered agent, John Strasheim, at 90554 Highway 99 North, Eugene, Oregon 97402.

JURISDICTION AND VENUE

5. This case arises under the patent laws of the United States, Title 35, United States Code, including, among others, section 271 entitled, "Infringement of Patent."

6. This Court has jurisdiction of this Action pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a), and 35 U.S.C. § 281.

7. Venue in this district is proper pursuant to the provisions of Title 28, United States Code, Section 1391.

8. This Court has personal jurisdiction over BowTech because it does business in this judicial district. A list of BowTech dealers in Indiana is attached as Exhibit A.

9. Defendant is subject to the personal jurisdiction of this Court because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this Judicial District, and Defendant has committed acts that have caused tortious injury to the Plaintiffs in this Judicial District.

BACKGROUND FACTS

10. On November 29, 1994, United States Patent No. 5,368,006 (hereinafter "the '006 Patent") was duly and legally issued for an invention titled "Dual-Feed Single-Cam Compound Bow." A true and accurate copy of the '006 Patent is attached hereto as Exhibit B.

11. On August 11, 1998, United States Patent No. 5,791,322 (hereinafter "the '322 Patent") was duly and legally issued for an invention titled "Dual-Feed Single-Cam Compound Bow." A true and accurate copy of the '322 Patent is attached hereto as Exhibit C.

12. On April 6, 1999, United States Patent No. 5,890,480 (hereinafter “the ‘480 Patent’”) was duly and legally issued for an invention titled “Dual-Feed Single-Cam Compound Bow.” A true and accurate copy of the ‘480 Patent is attached hereto as Exhibit D.

13. The ‘006 Patent, the ‘322 Patent and the ‘480 Patent (collectively “the Patents In Suit”) list Mathew McPherson as the inventor.

14. SOP Services, Inc. is the assignee of the Patents In Suit.

15. Bear Archery, Inc. is the exclusive licensee of the Patents In Suit from SOP and sells compound bows covered by the Patents In Suit.

16. The Patents In Suit have been extensively sub-licensed by Bear Archery and its predecessors in interest to companies which manufacture and sell compound bows.

17. Upon information and belief, Defendant manufactures, uses, sells, offers to sell and distributes compound bows and components which infringe the Patents In Suit (the “Infringing Bows”).

18. Bear Archery has complied with the patent marking requirements of 35 U.S.C. for products manufactured and sold by Bear Archery covered by the Patents In Suit.

19. Bear Archery’s licensees are required to comply with the patent marking requirements of 35 U.S.C. for products manufactured and sold which are covered by the Patents In Suit.

20. Defendant has been on actual notice of infringement of the ‘006 and ‘480 patents since at least receiving a letter sent by counsel for Mathew McPherson in January 2000 and a further letter in November 2002.

INFRINGEMENT OF U.S. PATENTS

21. Plaintiffs incorporate by reference the averments contained in paragraphs 1 through 20.

22. On information and belief, Defendant manufactures, uses, sells, offers to sell, and/or imports into the United States and this Judicial District products, including the Infringing Bows, that directly infringe the Patents In Suit.

23. On information and belief, Defendant has also contributed to and/or induced infringement of the Patents In Suit by others.

24. On information and belief, Defendant has acted willfully, intentionally and deliberately in derogation of Plaintiffs' rights in the Patents In Suit.

25. Plaintiffs have been damaged by Defendant's infringement and will suffer irreparable injury unless Defendant is permanently enjoined by this Court.

RELIEF

WHEREFORE, SOP Services and Bear Archery collectively pray for judgment as follows:

A. A judgment of infringement of the Patents In Suit be entered in favor of the Plaintiffs against BowTech;

B. An order permanently restraining Defendant or any subsidiaries, employees, agents or servants thereof, from further acts of infringement of the Patents In Suit;

C. An order that all infringing devices in the possession of, or subject to control by Defendant or any employees, agents or servants thereof, infringing on any claim of the Patents In Suit, and all plates, molds, matrixes and any other means of making the same, be delivered up and destroyed or altered to eliminate any possibility of manufacturing infringing devices;

D. An award of damages not less than a reasonable royalty, sufficient to Plaintiffs for Defendant's acts of infringement;

E. An award of damages under 35 U.S.C. § 284 in an amount not less than three times the amount of actual damages caused by Defendant's acts of willful and wanton infringement;

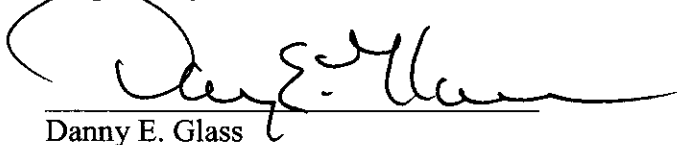
F. An award to Plaintiffs of their costs and expenses;

G. An order declaring that this is an exceptional case pursuant to 35 U.S.C. § 285 as a result of Defendant's knowing and willful infringement of the Patents In Suit, and awarding Plaintiffs their attorneys' fees incurred in bringing this action;

H. An order granting all other relief found necessary, just and proper under the circumstances, including monetary damages to which Plaintiffs may be entitled.

Plaintiffs request a jury for all issues so triable.

Respectfully submitted,



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