

Charles, State of Louisiana.

3.

Upon information and belief, Specialty Rental Tools & Supply, Inc.(hereinafter Specialty), is a Texas corporation authorized to do and doing business in the State of Louisiana and in the Western District of Louisiana.

COUNT I -DECLARATORY JUDGMENT OF NON-INFRINGEMENT

4.

On June 12, 2001, U.S. Patent No. 6,244,345 ('345 patent) was issued to inventor Charles M. Helms, and assigned to Specialty Rental Tools & Supply Company, Inc. A copy of the '345 patent is attached hereto as Exhibit A.

5.

Boyd's and Specialty are currently involved in a patent infringement action in the United States District Court for the Southern District of Texas, Galveston Division entitled CA G-99-341 wherein Specialty has alleged that Boyd has infringed U.S. Patent No. 5,284,210.

6.

In a draft of an amended complaint faxed to Boyd's counsel on October 24, 2001, Specialty is alleging that Boyd's is now infringing U.S. Patent No. 4,244,345 owned by Specialty. Boyd's considers this complaint as a charge of infringement of the '345 patent by Boyd's. A true and correct copy of the fax received by Boyd's counsel is attached hereto as Exhibit B.

7.

An actual and justiciable controversy exists between Boyd's and Specialty with respect to infringement of the '345 patent. Declaratory relief is thus necessary and proper.

8.

Specialty has not filed its amended complaint as threatened, but the threat still remains. Boyd's has never used the tool that is accused of infringing the '345 patent in the State of Texas, but has used the tool several times in the State of Louisiana, after the issuance of the '345 patent. Therefore, Boyd's asserts that the State of Louisiana is the proper venue for such an action.

9.

Boyd's seeks the declaration and judgment of this Court that Boyd's does not and has not infringed U.S. Patent No. 6,244,345.

**COUNT II - DECLARATORY JUDGMENT OF INVALIDITY
AND UNENFORCEABILITY**

10.

In the alternative, if, and only if, this Honorable Court finds that the apparatus and method used by Boyd's does infringe one or more claims of the '345 patent, which is at all times denied by Boyd's, then Boyd's alleges that the '345 patent is invalid and/or unenforceable.

11.

Boyd's seeks a judgment and declaration of this Court that the '345 patent is invalid and/or unenforceable on the following grounds:

a. The patent claims fail to particularly point out and distinctly claim the subject matter which the patentee regards as his invention in violation of 35 U.S.C. §112. e.g., the terms "lockable swivel" as used in the specification and the claims are not adequately defined.

b. The patent specification fail to set forth the best mode contemplated by the inventor of carrying out his invention, in violation of 35 U.S.C. §112 of the patent statute. If the best mode

is the “lockable swivel” disclosed in claim 1 of the patent, then that mode is unenforceable against the lockable swivel owned by Boyd’s.

c. The patent claims are obvious to one skilled in the art under 35 U.S.C. §103 of the patent statute in that the use of a swivel as would be defined in those claims are at least well known in the art at the time of the invention, and if “lockable swivel” is defined to include the lockable swivel manufactured by Boyd’s, under information and belief the Boyd’s lockable swivel, which issued as U.S. patent No. 5,996,712, was invented before the filing date of the application which issued as the ‘345 patent.

d. Upon information and belief, the patent claims are invalid under 35 U.S.C. §102(g), in that Boyd’s had invented it’s lockable swivel before the “lockable swivel” claimed in the claims of the ‘345 patent.

e. In the alternative, the “lockable swivel” which appears in the claims of the ‘345 patent, when compared with the specification of the patent, can only be defined as the lockable swivel as claimed in claim 1 of the ‘345 patent, which does not cover the lockable swivel manufactured by Boyd's; therefore the patent claims are unenforceable against the Boyd’s lockable swivel device.

JURY DEMAND

12.

Plaintiffs demand that a jury trial be conducted for all issues triable by a jury.

WHEREFORE, premises considered, Plaintiff, Boyd's Bit Service, Inc., prays for a judgment of this Court:

(A) Declaring that the apparatus and method as claimed in the '345 patent owned by

Specialty is not infringed by Boyd's;

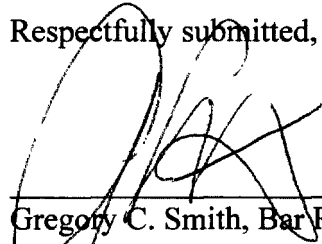
(B) In the alternative, if and only if the apparatus and/or process claimed in the '345 patent is found to be infringed by Boyd's, which at all times Boyd's denies, that a judgment be rendered declaring the '345 patent to be invalid and unenforceable;

(C) Awarding Boyd's costs and attorney's fees;

(D) Awarding Boyd's damages which are reasonable in the premises; and

(E) Awarding Boyd's such other and further relief, at law and equity, to which it may show itself to be entitled.

Respectfully submitted,



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Attorneys for Plaintiff, Boyd's Bit Service, Inc.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION**

**Boyd's Bit Service, Inc.
Plaintiff**

V.

**Specialty Rental Tools & Supply, Inc.
Defendant**

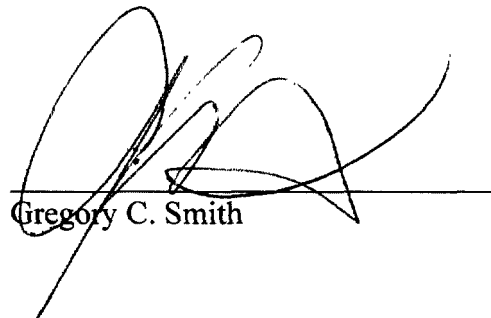
§ **CIVIL ACTION NO.: 01-2358**
§
§
§ **JUDGE MELANCON**
§
§ **MAGISTRATE HILL**
§
§ **JURY TRIAL DEMANDED**
§

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing pleading and attachments (if any) to counsel first listed in the complaint filed herein on this 17th day of April, 2002 by U.S. Mail.

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ROBERT H. SHERWELL, CLERK
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA

April 17, 2002

Robert H. Shemwell, Clerk
300 Fannin St., Ste. 1167
Shreveport, LA 71101-3083

RE: Boyd's Bit Service, Inc. v. Specialty Rental Tools & Supply, Inc.;
Cause No. CV-01-2358 Judge Melancon, Magistrate Judge Hill

Dear Mr. Clerk:

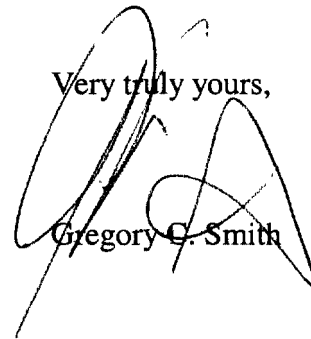
Enclosed please find the original and two copies of plaintiff's First Amended Complaint which plaintiff requests be filed in the record. Please return a conformed copy of the amended complaint in the self-addressed stamped envelope provided.

A copy of the amended complaint has been served on counsel for defendant via U.S. mail.

Thanking you for your consideration, I remain

Very truly yours,

Gregory C. Smith



GCS:cgc
Enclosures
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