

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

FORD MOTOR COMPANY, and  
MARTINREA INTERNATIONAL  
INC.,

Plaintiffs,

v

DIESEL SHIELD, LLC, and  
PETER C. PULOS, an individual,

Defendants.

Civil Action No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY RELIEF AND DEMAND FOR JURY TRIAL**

Plaintiffs FORD MOTOR COMPANY and MARTINREA INTERNATIONAL INC.  
complain against the Defendants DIESEL SHIELD, LLC and PETER C. PULOS as follows:

**THE PARTIES**

1. Plaintiff Ford Motor Company (“FMC”) is a Delaware corporation having a place of business at One American Road, Dearborn, Michigan, 48126.

2. Plaintiff Martinrea International Inc. is a Canadian corporation having a place of business 2800 Livernois, Suite 450, Troy, Michigan, 48083. In December 2002, Martinrea agreed to acquire and did acquire the assets of Pilot Industries, Inc. (collectively referred to as “Martinrea”).

3. Defendant Diesel Shield, LLC (“Diesel Shield”) is a Wisconsin limited liability company having a place of business at W315 S2828 Roberts Road, Waukesha, Wisconsin, 53188

4. Defendant Peter Pulos (“Pulos”) is an individual residing at W315 S2828 Roberts Road, Waukesha, Wisconsin, 53188 and, upon information and belief, is Diesel Shield’s sole and/or managing member.

#### **JURISDICTION AND VENUE**

5. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. FMC and Martinrea seek a declaratory judgment of non-infringement and invalidity of United States Patent No. 6,302,169 (“the ‘169 patent”) titled “Diesel Fuel Nozzle Restrictor,” and that no trade secrets have been misappropriated. The ‘169 patent is attached to this Complaint as Exhibit A.

6. This action is based upon an actual and continuing controversy between the parties with respect to the non-infringement and invalidity of the ‘169 patent, and the alleged misappropriation of trade secrets.

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, 2202 and 1367(a).

8. This Court has personal jurisdiction over Diesel Shield and Pulos since, among other things, they have purposefully availed themselves of the benefits, privileges and protections of the laws of this State and judicial district by actively and continuously soliciting FMC to buy a license or otherwise purchase an interest in the ‘169 patent, which resulted in Diesel Shield and Pulos’ wrongfully asserting that FMC has been and is infringing the ‘169 patent, and misappropriated unidentified trade secrets.

9. Venue is proper in this District based upon 28. U.S.C. § 1391(b)(2).

### BACKGROUND FACTS

10. On September 13, 2000, Pulos filed an application for patent with the United States Patent and Trademark Office (“PTO”), which later matured into the ‘169 patent.

11. On April 20, 2001, Pulos formed Diesel Shield.

12. On October 16, 2001, the PTO issued the ‘169 patent to Pulos.

13. On December 3, 2001, Pulos traveled to Dearborn, Michigan to meet with FMC representatives about the ‘169 patent, and to inquire whether FMC was interested in purchasing a license under the ‘169 patent, or otherwise purchasing an interest in the ‘169 patent.

14. Following the meeting, Pulos continued actively soliciting FMC in Michigan to purchase a license under the ‘169 patent.

15. In fact, Pulos continued to actively solicit FMC to practice and purchase a license under the ‘169 patent through at least 2008.

16. For example, on February 6, 2008, Pulos wrote an email to Michael Levin of FMC, stating “Ford UK has a diesel restrictor in the 2008 Mondeo. I am interested in giving the US rights to Ford at this point.” *See* Exhibit B.

17. Four days later, on February 10, 2008, Pulos contacted FMC via FMC’s <www.FORDnewideas.com> web site, writing he “would be interested in forwarding US patent rights [to the ‘169 patent] to Ford.” *See* Exhibit C.

18. On September 5, 2008, Pulos wrote again to FMC’s Michael Levin, this time alleging that “Ford is using a device in its 2009 US models that sounds identical to our patented Diesel Shield device that we shared with your group a few years ago.... At this point, it appears that there might be an infringement on our US patent. We are considering potential legal actions and would like to discuss this with the appropriate staff at Ford.” *See* Exhibit D.

19. Despite Pulos' 2008 threats of imminent legal action, FMC did not hear again about the matter until March 18, 2011.

20. On March 18, 2011, Pulos wrote to FMC's David Leitch in Dearborn, Michigan through legal counsel, outlining Pulos' efforts to solicit FMC to purchase a license under the '169 patent dating back to the initial meeting in 2001, at which Pulos "disclosed" the invention claimed in the '169 patent to Ford Motor Company and Pilot Industries." *See* Exhibit E at 1.

21. Pulos' March 18, 2011 letter alleged that "Several years after the initial meetings in 2001, Mr. Pulos learned that Ford was using his patented invention in diesel vehicles sold in other countries," and that "the nozzle restrictor device installed in Ford vehicles sold outside the United States were being supplied by Martinrea and manufactured at Martinrea's Michigan site in the United States." *Id.* at 1-2.

22. Pulos demanded that FMC pay "a pre-litigation offer that includes a release, a covenant not to sue, and a license covering past and future liability under the '169 patent" in exchange for a lump sum payment of \$4,725,000.00 (U.S.), along with a fixed yearly payment of \$675,000.00 (U.S.) for the remaining life of the '169 patent. *Id.* at 2.

23. Pulos copied Martinrea on his March 18, 2011 demand letter. *Id.* at 3.

24. On April 26, 2011, FMC responded to Pulos' letter denying liability in all respects. *See* Exhibit F.

25. On June 10, 2011, Pulos replied to FMC, this time alleging that his '169 patent was infringed by an entirely different product; Ford's "Easy Fuel 'no cap' Fuel Filler." *See* Exhibit G at 1.

26. According to Pulos' June 10, 2011 missive, FMC's "Easy Fuel system was introduced into the United States marketplace in 2008 ... [and] is a standard offering on Ford's most popular products." *Id.*

27. The Pulos' letter concluded with the threat that "we will wait thirty (30) days from the mailing date of this letter for any settlement offer from Ford. After this date, we will form our litigation team ... and will be seeking injunctive relief." *Id.* at 2.

28. Martinrea supplies FMC with the "Easy Fuel 'no cap' Fuel Filler" that Pulos has alleged infringes the '169 patent.

29. Under these facts and circumstances, there is and will remain a substantial controversy between FMC and Martinrea on the one hand, and Diesel Shield and Pulos on the other, having sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

**FIRST CAUSE OF ACTION  
DECLARATION OF NON-INFRINGEMENT OF  
UNITED STATES PATENT NO. 6,302,169**

30. FMC and Martinrea incorporate all of the preceding paragraphs by reference as though set forth herein.

31. An actual controversy exists between FMC and Martinrea on the one hand, and Diesel Shield and Pulos on the other, regarding the non-infringement of the '169 patent.

32. Unless prevented through this declaratory judgment action, Diesel Shield and Pulos Defendants will continue to wrongfully assert the '169 patent against FMC and Martinrea.

33. FMC and Martinrea have not infringed and are not infringing, either directly or indirectly, literally or under the doctrine of equivalents, willfully or otherwise, any of Diesel Shield or Pulos' patent rights, including any rights they may have in the '169 patent.

34. Accordingly, FMC and Martinrea are entitled to declaratory judgment that they have not infringed and are not infringing any of Diesel Shield or Pulos' patent rights in the '169 patent.

**SECOND CAUSE OF ACTION  
DECLARATION OF INVALIDITY OF  
UNITED STATES PATENT NO. 6,302,169**

35. FMC and Martinrea incorporate all of the preceding paragraphs by reference as though set forth herein.

36. An actual controversy exists between FMC and Martinrea on the one hand, and Diesel Shield and Pulos on the other, regarding the invalidity of the '169 patent claims.

37. Unless prevented through this declaratory judgment action, Diesel Shield and Pulos will continue to wrongfully assert the '169 patent against FMC and Martinrea.

38. The '169 patent is invalid for failure to comply with the requirements of Title 35, United States Code, including one or more of Sections 102, 103 and/or 112.

39. FMC and Martinrea are entitled to a declaratory judgment that the '169 patent is invalid.

**THIRD CAUSE OF ACTION  
NO MISAPPROPRIATION OF TRADE SECRETS**

40. FMC and Martinrea incorporate all of the preceding paragraphs by reference as though set forth herein.

41. An actual controversy exists between FMC and Martinrea on the one hand, and Diesel Shield and Pulos on the other, regarding whether FMC and/or Martinrea have misappropriated trade secrets from Diesel Shield and/or Pulos.

42. Unless prevented through this declaratory judgment action, Diesel Shield and/or Pulos will continue to wrongfully assert that FMC and/or Martinrea have misappropriated trade secrets from Diesel Shield and/or Pulos.

43. FMC and Martinrea are entitled to a declaratory judgment that they have not misappropriated trade secrets from Diesel Shield and/or Pulos.

#### **PRAYER FOR RELIEF**

WHEREFORE, Ford Motor Company (“FMC”) and Martinrea International Inc. (“Martinrea”) request the following:

- A. Entry of judgment that FMC and Martinrea have not infringed the ‘169 patent.
- B. Entry of judgment that FMC and Martinrea have not willfully infringed the ‘169 patent.
- C. Entry of judgment that the ‘169 is invalid.
- D. Entry of a permanent injunction that prohibits Diesel Shield, LLC and Mr. Peter Pulos, including their officers, directors, agents and anyone acting on behalf of or in concert with any of them, (i) from asserting that FMC or Martinrea, their customers, agents, employees or anyone acting on behalf of FMC or Martinrea has infringed any of Diesel Shield and/or Pulos’ patent rights, including any in the ‘169 patent, or (ii) from asserting that the ‘169 patent is valid.
- E. Entry of judgment declaring that neither FMC nor Martinrea have misappropriated any trade secret(s) from Diesel Shield and/or Pulos.
- F. Entry of judgment finding this is an exceptional case and awarding FMC and Martinrea their costs and reasonable attorneys’ fees pursuant to 35 U.S.C. § 285.

G. Entry of judgment awarding FMC and Martinrea their actual and compensatory damages according to proof at trial, including without limitation, their reasonable attorneys' fees, expenses and costs incurred in this action pursuant to 35 U.S.C. § 285.

H. Such other and further relief as the Court deems just and proper.

### **JURY DEMAND**

Plaintiffs Ford Motor Company and Martinrea International Inc. hereby request trial by jury of all issues so triable.

Respectfully submitted,

Dated: July 13, 2011

s/George T. Schooff  
George T. Schooff (P45596)  
Harness, Dickey & Pierce, P.L.C.  
5445 Corporate Drive, Suite 200  
Troy, Michigan 48098  
(248) 641-1600  
[gschooff@hdp.com](mailto:gschooff@hdp.com)

*Attorney for Plaintiff Ford Motor Company*

Respectfully submitted,

Dated: July 13, 2011

s/Douglas W. Sprinkle (w/permission)  
Douglas W. Sprinkle  
Gifford, Krass, Sprinkle, Anderson &  
Citkowski, P.C.  
2701 Troy Center Drive  
Troy, Michigan 48007  
(248) 647-6000  
[dsprinkle@patlaw.com](mailto:dsprinkle@patlaw.com)

*Attorney for Plaintiff Martinrea  
International Inc.*