

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

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U.S. DISTRICT COURT  
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EVANSVILLE DIVISION

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U.S. DISTRICT COURT  
OF INDIANA  
LAURA BRIGGS  
CLERK

\_\_\_\_\_  
SOP SERVICES, INC., and  
BEAR ARCHERY, INC.,  
  
Plaintiffs,  
  
v.  
  
STORM ARCHERY, LLC  
  
\_\_\_\_\_  
Defendant.

**3: 10-cv-0086RLY-WGH**

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

DEMAND FOR JURY TRIAL

**COMPLAINT FOR BREACH OF CONTRACT  
AND PATENT INFRINGEMENT**

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

**PARTIES**

1. Plaintiff, SOP Services, Inc. is a corporation organized under the laws of  
the State of 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 Storm Archery, Inc. is a limited  
liability company organized under the laws of the State of Indiana, and has a principal  
place of business at 4301 CR 60, Auburn, Indiana 46706.

**JURISDICTION AND VENUE**

4. 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."

5. This Court has jurisdiction of this Action pursuant to 28 U.S.C. §§ 1331 and 1338(a), and 35 U.S.C. § 281 and through the Court's supplemental jurisdiction under 28 U.S.C. § 1367.

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

7. This Court has personal jurisdiction over Storm Archery because it resides in and does business in Indiana.

8. This Court has personal jurisdiction over Storm Archery because it agreed to personal jurisdiction in this Judicial District.

**BACKGROUND FACTS**

9. 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 A.

10. 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 B.

11. 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 C.

12. On October 16, 2007, United States Reissued Patent No. RE 39,880 (hereinafter “the ‘880 Patent”) was duly and legally issued for an invention titled “Dual-Feed Single-Cam Compound Bow.” A true and accurate copy of the ‘880 Patent is attached hereto as Exhibit D.

13. The ‘006 Patent, the ‘322 Patent, the ‘480 Patent, and the ‘880 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 with the right to sublicense, and sells compound bows covered by the Patents-In-Suit.

16. 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.

17. 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.

18. 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.

19. Storm Archery signed a royalty bearing license with Bear Archery on December 1, 2004 (the "License Agreement"). A copy of that License Agreement is attached as Exhibit E.

20. Under the License Agreement, Storm Archery is required to pay a per unit royalty to Bear Archery on a quarterly basis with a minimum annual prepaid royalty of \$5,000 due on January 1 of each calendar year. Exhibit E, ¶3.

21. Storm Archery did not pay the \$5,000 minimum royalty payment due January 1, 2006 under the License Agreement.

22. Under the License Agreement, Storm Archery is required to submit a quarterly written statement setting forth by model number, price and unit, the number of single cam archery bows and single cam archery cam archery bow components sold during the period. Exhibit E, ¶5.

23. Storm Archery did not submit any quarterly reports as required under ¶ 5 of the License Agreement.

24. Bear Archery sent a letter on March 20, 2006 requesting Storm Archery's quarterly reports and payment of the \$5,000 royalty payment, which was due on January 1, 2006. A copy of this letter is attached as Exhibit F.

25. Bear Archery sent an e-mail message on June 19, 2006 requesting Storm Archery's quarterly reports and payment of the \$5,000 royalty payment, which was due on January 1, 2006. A copy of this email is attached as Exhibit G.

26. Paul King, Jr. of Storm Archery responded to Bear Archery's letter and e-mail message with an e-mail message of his own assuring Bear Archery that Storm

Archery would “expedite payment quickly”. A copy of this email is attached as Exhibit H.

27. Bear Archery sent a second letter, via certified mail, on October 25, 2006 requesting Storm Archery’s quarterly reports and informing Storm Archery that the License Agreement would be considered terminated if Storm Archery did not pay the \$5,000 royalty payment, which was due on January 1, 2006, within 30 days. A copy of this letter is attached as Exhibit I.

28. Pete Thompson of Storm Archery responded to Bear Archery’s October 25, 2006 letter by telephone seeking to waive the \$5,000 minimum royalty for 2006 and restart the license effective January 1, 2007.

29. Bear Archery sent a third letter, via certified mail on February 2, 2007 denying Storm Archery’s request to waive the royalty payment for 2006. A copy of this letter is attached as Exhibit J.

30. Bear Archery has not received any royalty payments for 2006 or thereafter from Storm Archery.

31. Bear Archery sent a fourth letter, via certified mail on December 12, 2006 notifying Storm Archery that its license was terminated. A copy of this letter is attached as Exhibit K.

32. Storm Archery has manufactured and continues to manufacture, use, sell, offer to sell and distribute compound bows and components which infringe the Patents-In-Suit (the “Infringing Bows”). A copy of selected pages from the Storm Archery’s website, [www.storm-archery.com](http://www.storm-archery.com), are attached as Exhibit L.

**INFRINGEMENT OF PATENTS-IN-SUIT**

33. Plaintiffs incorporate by reference, the averments contained in paragraphs 1 through 32.

34. Defendant has infringed the Patents-In-Suit.

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

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

**BREACH OF CONTRACT**

37. Plaintiffs incorporate by reference, the averments contained in paragraphs 1 through 36.

38. Defendant has breached their obligations to Plaintiffs pursuant to their license agreement.

39. Defendant's breach has resulted in a termination of its license agreement.

40. On information and belief, Defendant has acted willfully, intentionally and deliberately.

41. Plaintiffs have been damaged by Defendant's breach of the license agreement.

**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 Plaintiffs against Defendant.

B. A judgment of breach of contract be entered in favor of Plaintiffs against Defendant.

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

D. 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.

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

F. 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.

G. An award to Plaintiffs of their costs and expenses.

H. 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 Plaintiff their attorneys' fees incurred in bringing this action.

I. 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,

A handwritten signature in black ink, appearing to read "Charles J. Meyer", is written over a horizontal line.

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