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3:04-CV-00863 KRINNER USA INC V. PRO PERFORMANCE

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CLERY, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

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7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

"BY FAX"

10 KRINNER USA, INC., a Nevada corporation,)

Case No.

11 Plaintiff,)

'04 CV 00863

R (NLS)

12 vs.)

13 PRO PERFORMANCE SPORTS, a)
California corporation; PACINTREX)
14 INDUSTRIES, INC., an Indiana corporation;)
ANSEN USA, INC., an Indiana corporation;)
15 ALFRED M. STAUDER, an individual;)
HVW DISTRIBUTION LLC, a Michigan)
16 limited liability company; JOSEPH WILSON,)
an individual; AL SIMON, an individual;)
17 DAN VIDOSH, an individual; DENNISE)
VIDOSH, an individual, and CHARLES)
18 HALSEL, an individual,)

COMPLAINT FOR PATENT
INFRINGEMENT

19 Defendants.)
20)

21
22 Plaintiff KRINNER USA, INC. ("KRINNER") brings this action for infringement of
23 U.S. Patent No. 5,114,113 ("THE '113 PATENT") in violation of 35 U.S.C. § 271. Plaintiff
24 alleges the following facts upon actual knowledge with respect to itself and its own acts and
upon information and belief as to all other matters.

Complaint

THE PARTIES

1
2 1. Plaintiff KRINNER is a corporation organized and existing under the laws of
3 the State of Nevada, having its principal place of business at 17210 Beach Blvd., Huntington
4 Beach California 92647.

5 2. KRINNER is the owner of THE '113 PATENT.

6 3. KRINNER markets Christmas tree stands throughout the United States that are
7 covered by THE '113 PATENT and which permit a user to put up a tree easily and quickly in a
8 way that securely holds and grips the tree's trunk in a supporting base.

9 4. Defendant PRO PERFORMANCE SPORTS ("PPS") is a corporation organized
10 and existing under the laws of the state of California, having its principal place of business at
11 12310 World Trade Drive, Suite 108, San Diego California 92128.

12 5. Defendant HVW DISTRIBUTION LLC ("HVW") is a domestic limited
13 liability company organized and existing under the Limited Liability Company Act of
14 Michigan, having its registered office located at Suite 310, 3890 Charlevoix Avenue, Petoskey,
15 Michigan 49770.

16 6. Defendant PACINTREX INDUSTRIES, INC. ("PACINTREX") is a
17 corporation organized and existing under the laws of the state of Indiana and has its business
18 located at 11665 East 300 South, Zionsville, Indiana 46077.

19 7. Defendant, ANSEN USA, INC. ("ANSEN") is a corporation organized existing
20 under the laws of the state of Indiana with its business located at 11665 East 300 South,
21 Zionsville, Indiana 46077.

22 8. On information and belief, ANSEN and/or PACINTREX had 10,000 Qwik Grip
23 Christmas tree stands manufactured in China and shipped into the United States for distribution
24 and resale through out the United States.

1 9. Defendant PPS is in the business of marketing, and distributing, directly or
2 through its agents or affiliates, Qwik Grip Christmas tree stands. Defendant PPS transacts
3 business in this District and elsewhere by making, using, selling and/or offering for sale
4 products, including the Qwik Grip Christmas tree stand products that are the subject of this
5 action, in this District.

6 10. Upon information and belief, defendant ALFRED M. STAUDER is the
7 registered agent, owner and principal officer of both PACINTREX and ANSEN.

8 11. Upon information and belief, Defendant HVW learned of the KRINNER
9 Christmas tree stand at least as early as November 2002 and that the KRINNER Christmas tree
10 stand was patented.

11 12. Upon information and belief, HVW has known of THE '113 PATENT at least
12 since January 2003.

13 13. On information and belief, Defendant HVW, as part of its business, obtained
14 several of Plaintiff's patented Christmas tree stands.

15 14. Defendant HVW, upon information and belief, contracted with PACINTREX
16 and/or ANSEN to have the patented KRINNER Christmas tree stand copied and manufactured
17 in China for export to the United States and sale in the United States as the Qwik Grip
18 Christmas tree stand.

19 15. Defendant HVW arranged with PPS to market, sell and distribute Qwik Grip
20 Christmas tree stands in this District and elsewhere in the United States.

21 16. Upon information and belief, Defendants JOSEPH WILSON, AL SIMON,
22 CHARLES HALSEL, DANIEL VIDOSH, and DENNISE VIDOSH are partners and owners,
23 individually and collectively, of HVW.

24 17. Defendant JOSEPH WILSON is the resident agent of HVW and has been since

1 at least as early as December 9, 2002.

2 **JURISDICTION AND VENUE**

3 18. This is an action for patent infringement arising under the Patent Laws of the
4 United States, particularly 35 U.S.C. §§ 271 and 281-285. This Court has jurisdiction over the
5 subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338.

6 19. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c), and
7 1400(b).

8 20. Defendants, HVW, PPS, ANSEN, PACINTREX, STAUDER, WILSON,
9 SIMON, DAN VIDOSH, DENNISE VIDOSH and HALSEL (collectively hereinafter
10 "DEFENDANTS"), have collectively and individually transacted business and committed acts
11 of infringement within the State of California or directed others to do so, and, more
12 particularly, did so within this District and thus are subject to the personal jurisdiction of this
13 Court. Defendant PPS resides in this District for purposes of venue, insofar as Defendant PPS
14 is subject to personal jurisdiction in this District and, in cooperation with the Defendants
15 HVW, PACINTREX, ANSEN, STAUDER, WILSON, SIMON, DAN VIDOSH, DENNISE
16 VIDOSH and HALSEL, has committed acts of infringement in this District.

17 **COUNT ONE - INFRINGEMENT OF THE '113 PATENT**

18 21. Plaintiff re-alleges and incorporates by reference paragraphs 1-20 above.

19 22. KRINNER is the owner, by assignment, of all right, title and interest in THE
20 '113 PATENT, which was duly issued on November 21, 2000, by the U.S. Patent and
21 Trademark Office. A true copy of THE '113 PATENT is attached hereto as Exhibit 1.

22 23. Defendants HVW, PPS, ANSEN, PACINTREX, STAUDER, WILSON,
23 SIMON, DAN VIDOSH, DENNISE VIDOSH and HALSEL have infringed and continue to
24 infringe THE '113 PATENT under 35 U.S.C. § 271 by making, using, offering to sell, or

1 selling in the United States, or by importing into the United States, without authorization,
2 Qwik Grip Christmas tree stands that employ and embody the invention of THE '113
3 PATENT.

4 24. As a result of Defendants' infringement of THE '113 PATENT, KRINNER has
5 been damaged and will continue to be damaged unless such infringement is enjoined by this
6 Court. Pursuant to 35 U.S.C. § 284, KRINNER is entitled to damages adequate to compensate
7 for the infringement, including, *inter alia*, lost profits and/or a reasonable royalty. In addition,
8 KRINNER has suffered and will continue to suffer irreparable harm for which there is no
9 adequate remedy at law.

10 25. The infringement of THE '113 PATENT by Defendants has been and is willful.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff KRINNER prays that the Court enter a judgment against each
13 of the Defendants as follows:

14 A. A decree that each of the Defendants has infringed THE '113 PATENT;

15 B. Preliminary and permanent injunctions restraining each of the Defendants, and
16 their respective officers, directors, agents, employees, representatives, distributors, servants,
17 attorneys and all persons in active concert or participation with them from further acts of
18 infringement of THE '113 PATENT, pursuant to 35 U.S.C. § 283;

19 C. An award of damages against the Defendants sufficient to compensate
20 KRINNER for the Defendants' infringement of THE '113 PATENT in an amount not less than
21 KRINNER'S lost profits and/or a reasonable royalty, pursuant to 35 U.S.C. § 284;

22 D. An award of treble damages, pursuant to 35 U.S.C. § 284, to the extent that the
23 Defendants' acts of infringement of THE '113 PATENT is determined to be willful;

1 E. An award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of
2 each act of infringement of THE '113 PATENT by the Defendants to the day a damages
3 judgment is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. §
4 1961, continuing until such judgment is paid;

5 F. An award of reasonable attorneys' fees against the Defendants, pursuant to 35
6 U.S.C. § 285, and KRINNER'S costs of suit against the Defendants, pursuant to 35 U.S.C. §
7 284, based on the Defendants infringement of THE '113 PATENT; and

8 G. Such other and further relief as this Court deems just and appropriate.

9 **DEMAND FOR JURY TRIAL**

10 KRINNER hereby demands a jury trial on all issues in this action.

11
12 DATED: April 26, 2004

KRINNER USA, INC.
by and through its Attorneys

13
14 

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24

Exhibit 1

CHRISTMAS TREE STAND

5,114,113

The invention consists of a Christmas-tree stand as described in the preamble of claim 1.

In the familiar type of Christmas-tree stand, a sheath is affixed vertically to plate or a foot-piece and serves to hold the bottom end of the tree trunk. Clamp screws are provided at regular spacing around the side of the sheath, which point into the holder and serve to wedge in and thereby hold up the trunk. The disadvantage of this design is the fact that only a very small gripping force can be applied to the trunk by means of the clamp screws, which are usually tightened by hand. Therefore these familiar Christmas-tree stands do not do their job satisfactorily. Furthermore, the exact vertical positioning of the tree that is desirable for aesthetic reasons is difficult to accomplish. Finally, positioning and clamping requires the assistance of a second person, as usually screws in practically impossible.

Another well-known method is to fasten the tree trunk into a suitably large hole drilled in a foot-piece by means of wooden wedges.

DE-AS 23 52 692 shows a stand specifically intended for wiring up Christmas-trees with a trunk sheath attached vertically to a ground plate in familiar fashion. Within this sheath, a second, sliding sheath is inserted which rests its bottom on a tension spring of corresponding proportions. This inner coaxially mobile sheath serves to receive the tree trunk. Clamps are fixed along the upper edge of the outer sheath that can swing out towards the center axis of the trunk. To fasten a Christmas-tree trunk in this familiar type of stand, the bottom end of the trunk is introduced into the inner coaxially mobile sheath, and then both are moved downwards in the outer sheath against the force of the spring. This gravity-assisted motion of trunk and sheath allows the clamps on the outer sheath to swing inward, where they come into contact with the outer surface of the tree trunk and center it. The disadvantage of this design is that it only operates correctly in a certain range of trunk diameters. Above that range, any substantial departure of the trunk's cross-section from a perfect circle causes the trunk's cross-section to fill unevenly, thereby giving it an insufficient grip as well as making the tree position deviate from the vertical.

DE-OS 30 03 233 as well as U.S. Pat. No. 2,260,932 show a device for vertically fastening pole-shaped objects, especially tree trunks, in which the trunk is anchored and fastened in a mount by means of a compressed system of guy-wires in the manner of a ship's mast. Aside from the fact that the guy-wires span over a considerable portion of the height of the tree, these familiar devices are of extremely complicated construction and, in addition, are inconvenient to use.

DE-PS 30 42 shows a Christmas-tree stand consisting of a cylinder equipped with openings running straight up and down and mounted vertically on a foot-piece or stand. Clamps are inserted into the rim-shaped gaps by hanging on horizontal axes of rotation which allow them to pivot. The upper end of the clamps are blunt and project inside the cylinder in the resting position. When the tree trunk is inserted into the cylinder, this downward motion brings its bottom end into contact with the ends of the clamps projecting inward. The clamps pivot on the horizontal axes, and the ends with the sharp-edged points are pressed into the cylinder where they dig into the wood of the trunk. They are supposed to hold the tree (this way). The disadvantage of this design is that the force needed to hold the tree must be exerted in the motion of inserting the trunk into the holder. This means that increasing resistance must be overcome as the trunk is inserted further into the mount, which finally becomes so great as to prevent further insertion of the trunk even before the edges of clamps of the clamp can provide sufficiently secure lateral stability.

DE-OS 23 581 51 introduced a type of Christmas-tree stand consisting in essence of a holder for the bottom end of the tree trunk from which extendable legs spread out radially. The holder has three clamp arms or support claws, for example, which can be moved forward or away from the trunk surface by means of a connecting clamping device and an intermediate toggle-lever joint. In a practical example, a horizontal plate is moved up and down, and toggle-lever joints attached to the plate transfer this motion to the individual clamp arms. As with the other tree stands of prior art mentioned, a Christmas-tree stand according to DE-OS 23 581 51 has the disadvantage that the simultaneous guided motion of the clamp arms makes it very difficult to mount non-circular tree trunks exactly vertically. Objects falling under DE OS 23 58 151 therefore use adjusting screws on the outside radial ends of the support legs for the exact vertical positioning of the mounted tree trunk. This allows one to accommodate for the unevenness of the floor and to get the tree straight, or to compensate for clamping the tree in crookedly and be able to act the tree up in a vertical position.

By contrast, the purpose of the following invention is to equip a Christmas-tree stand so that regularly-colored tree trunks can be fastened and held securely and reliably in a vertical position with adjustable force. This task is accomplished in the present invention by means of a stand comprising one foot-piece, a holder for the trunk of the tree attached to the foot-piece, a pivotal end and arranged symmetrically around a central axis, said components being swingably about a pivot a fastening position in planes approximately intersecting at the axis of symmetry, wherein the butt-ends of the fastening components simultaneously via a power transmission component, thus moving them into their fastening position with adjustable gripping force. The fastening components are applicable to the trunk by said power transmission component basically without force and independently of each other, so that the gripping force does not act on the trunk until all fastening components have made contact with the said trunk.



US005114113A

United States Patent [19]

[11] **Patent Number:** 5,114,113

Krinner

[45] **Date of Patent:** May 19, 1992

- [54] **CHRISTMAS TREE STAND**
- [76] **Inventor:** Klaus Krinner, Blumenthal, Fed. Rep. of Germany
- [21] **Appl. No.:** 589,069
- [22] **Filed:** Sep. 27, 1990
- [30] **Foreign Application Priority Data**
Sep. 26, 1989 [DE] Fed. Rep. of Germany 3932473
- [51] **Int. Cl.:** F16M 13/00
- [52] **U.S. Cl.:** 248/525; 47/40.5
- [58] **Field of Search** 248/524, 525, 526, 519, 248/523; 47/40.5

4,936,538 6/1990 Royce 47/40.5 X

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- 2358151 8/1977 Fed. Rep. of Germany .
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Primary Examiner—J. Franklin Foss
Attorney, Agent, or Firm—Omri M. Behr

[57] **ABSTRACT**

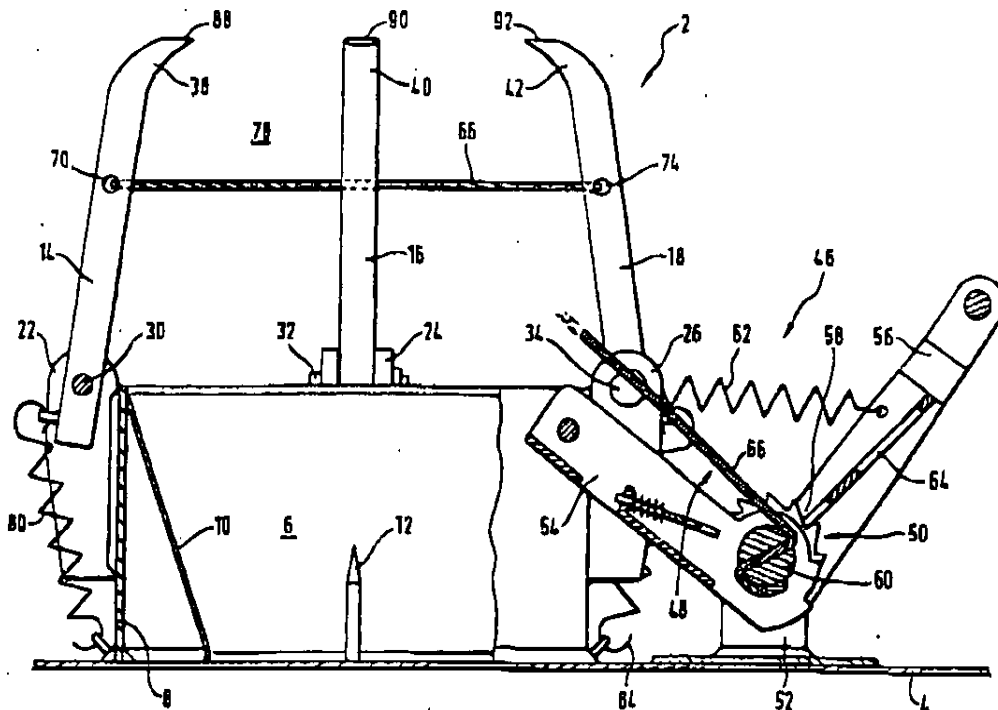
A Christmas-tree stand (2) features a foot-piece (4) with a connected holder (6) to which fastening components (14, 16, 18 and 20) are attached. In the example case, these components are swinging clamps which are pressed against the outer surface of the tree trunk by a clamping device (46). The pressure of the clamping device (46) is applied to the fastening components (14, 16, 18 and 20) via a steel cable (66), for example, which encircles them and is attached to the clamping device (46). The cable (66) moves the fastening components (14, 16, 18 and 20) toward the trunk with adjustable and evenly distributed force.

16 Claims, 3 Drawing Sheets

[56] **References Cited**

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Fig. 1

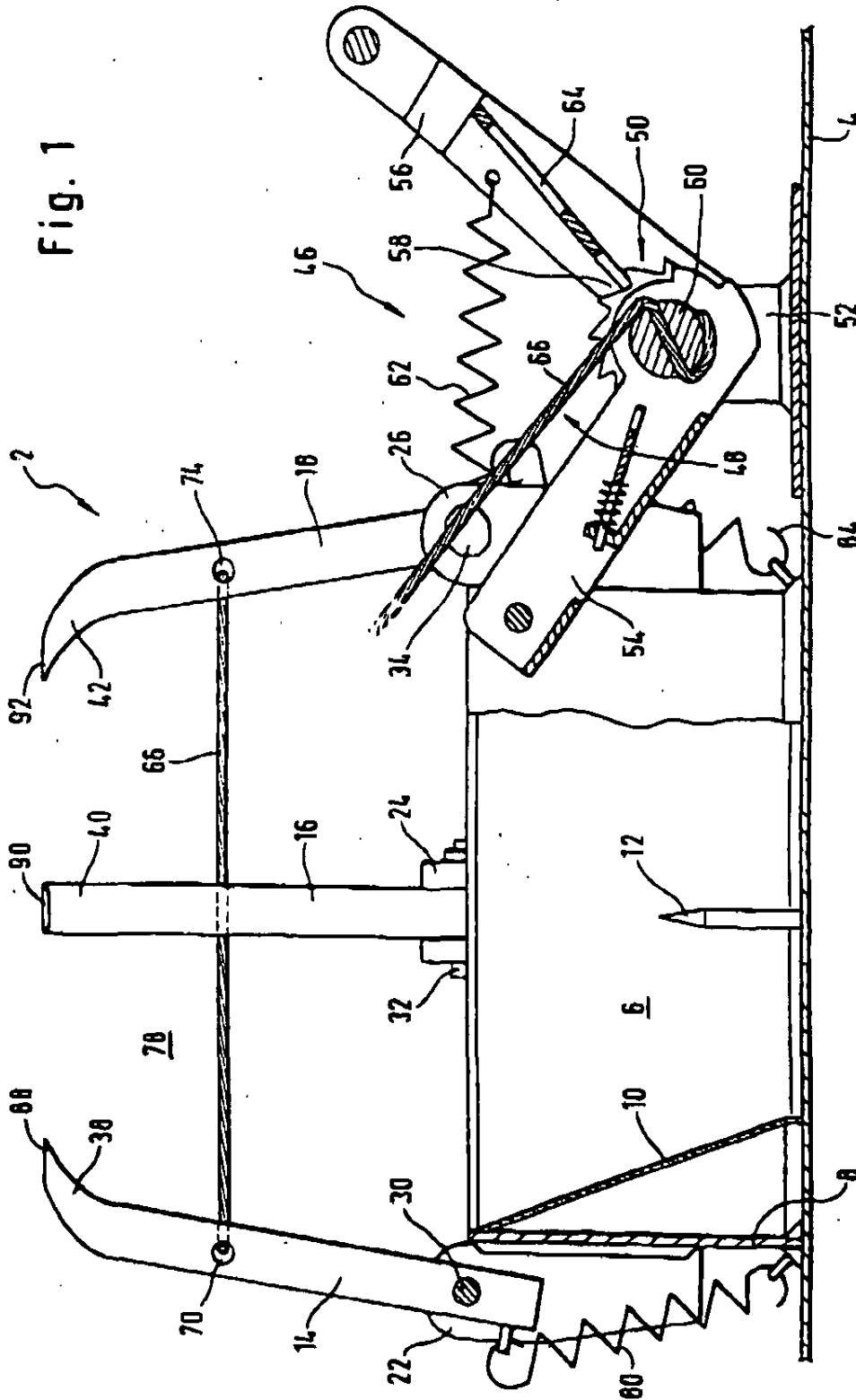


Fig. 2

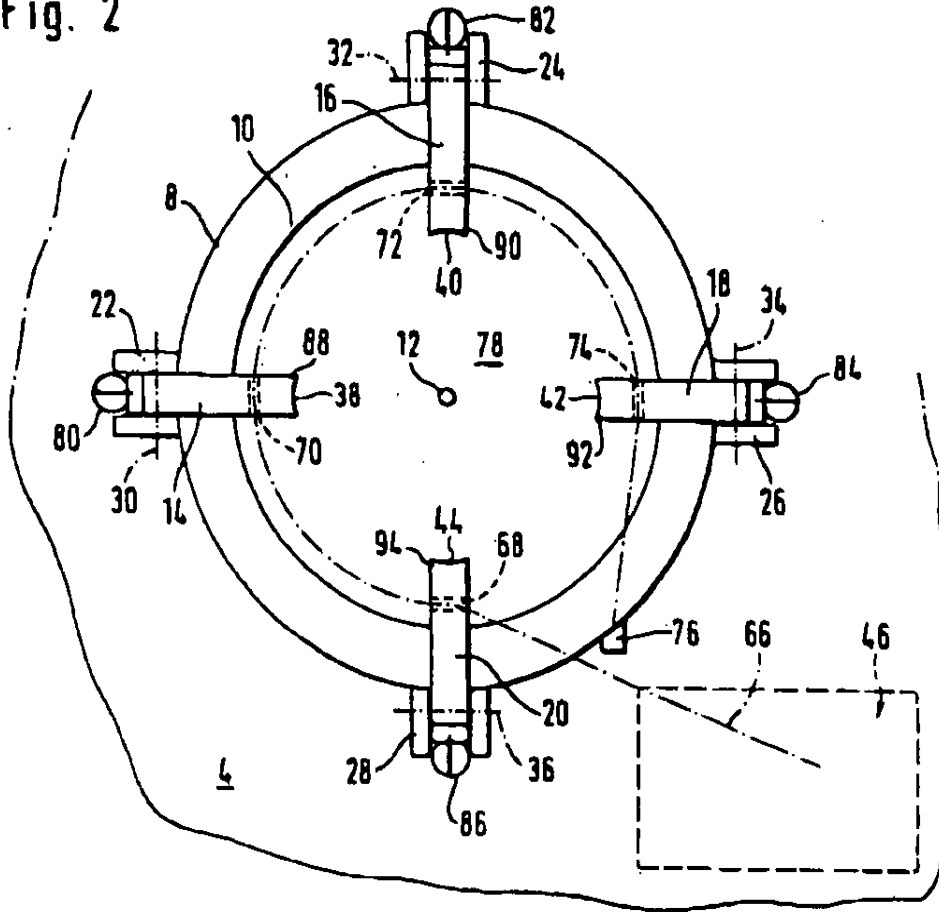
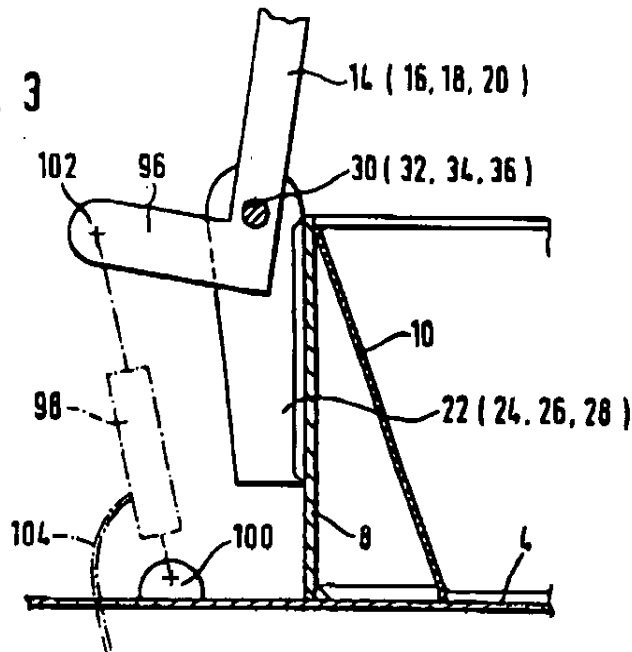


Fig. 3



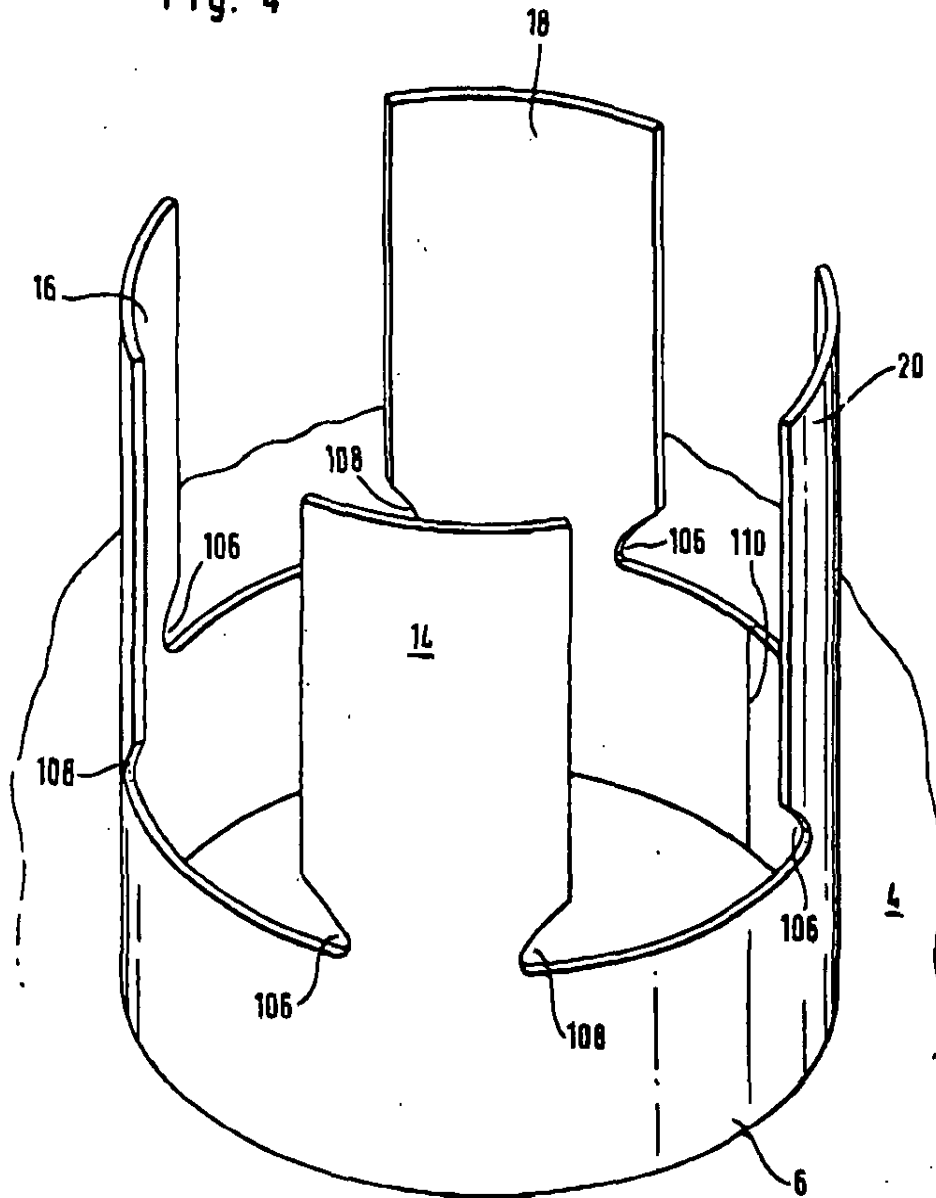
U.S. Patent

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Fig. 4



38, 40, 42, and 44 to rest against the trunk and grip
 force of tension that holds the tree is not covered until
 after all fastening components 14, 16, 18 and 20 have
 even if the individual fastening components contact it
 irregularly and one after the other.
 Christmas-tree stand invention 2 also makes it possi-
 ble for a single person to set a Christmas-tree up verti-
 cally, as the tree must merely be inserted into holes 78,
 and stood up straight. It is then held in place by operat-
 ing ratchet bar 56 of clamping device 66. This action
 pulls cable 66 taut and clamps the tree into stand 2.
 Complicated adjustments by individually turning
 clamps screws spread around the stand, or wedging the
 tree to achieve a vertical position are thus made unnec-
 essary.
 In the variation shown in FIG. 3, where the clamping
 device is a pressure pump, fastening the tree is even
 easier, because an electrically operated pump can then
 supply the individual pressure cylinders 98 with pres-
 surized fluid and move the individual fastening compo-
 nents 14, 16, 18 and 20 into their fastened position. If a
 mechanical pump is used, the best type would be a
 foot-operated one, so that the clamping process corre-
 sponds to operating ratchet bar 56 in the version shown
 in FIG. 1.
 In any case, the progressive contact of fastening com-
 ponents 14, 16, 18 and 20 does not shift the trunk out of
 the position it was in before clamping device 66 was
 operated. Thus one can also fasten the trunk tightly and
 accurately in a specific slanted position. This is especially
 useful if the surface under tree stand 2 is not horizontal,
 in the outdoors for instance, where a tree fastened
 straight up and down would actually turn out to be
 crooked.
 To transfer the fastening components 14, 16, 18 and
 20 of the version in FIG. 1 from the fastening to the
 open position, release bar 66 is operated to stop pawl
 lock 58 from acting on roller 60. Cable 66 relaxes due to
 its own elasticity, and no longer keeps fastening compo-
 nents 14, 16, 18 and 20 in their fastening position. In-
 stead, the pull of release springs 80, 82, 84 and 86, or
 perhaps a little manual force, returns them to the open
 position, allowing the removal of the tree from the
 stand.
 In the version depicted in FIG. 3, the pressure fluid is
 sucked out of the individual pressure cylinders 98, or
 escapes on its own operation of a special valve, leav-
 ing fastening components 14, 16, 18 and 20 return their
 position as well.
 Another substantial advantage of the Christmas-tree
 stand invention is the fact that in version 1, shown in
 FIGS. 1 and 2, its variation shown in FIG. 3, as well as
 version 2 show in FIG. 4, the fastened position of fas-
 tening components 14, 16, 18 and 20 can be adjusted at
 any time. This is especially useful if the tree remains in
 the stand 2 for a longer period of time, since the wood
 begins to dry out, the trunk shrinks, and the grip on the
 tree gradually weakens. In this case cable 66 can easily
 be tightened further by operating ratchet bar 56 once or
 twice, thus ensuring a secure grip by fastening compo-
 nents 14, 16, 18 and 20 again. In the case of the version
 and 20 can be readjusted by a brief operation of the
 pressure pump.

96 by means of a bearing 102 as well. Furthermore,
 end of pressure-cylinder 98 is attached to lever section
 104 is inserted and connected in series to
 the pressure-cylinders 98 of the other fastening compo-
 nents 16, 18 and 20 as well. In the variation shown in
 FIG. 3, the individual pressure-cylinders 98 and the
 pressure line 104 connecting them together form power
 transmission component 48. A pressure pump (not pic-
 tured) serves as clamping device 46 for power transmiss-
 ion component 48. This allows a pressurized fluid, such
 as hydraulic oil, or pressurized air to be pumped into the
 individual pressure-cylinders via the pressure line 104.
 Thus fastening components 14, 16, 18 and 20 can exe-
 cute their pivoting motions from the open position to
 the fastened position and back again.
 In this case the pressure pump could be operated by
 hand or foot like an air pump, or could be an electrically
 driven pump, for example.
 In a further variation of the tree stand invention,
 fastening components 14, 16, 18 and 20 are not separate
 components hinged to pivot on holder 6. Rather, the
 individual fastening components and the holder are
 formed of a piece. FIG. 4 depicts this second variation
 of the invention in diagrammatically simplified perspec-
 tive.
 As illustrated in FIG. 4, the cylindrical holder 6 is
 affixed to base-piece 4 of the tree stand. Fastening com-
 ponents (four in the example shown) 14, 16, 18 and 20
 are formed of one piece on holder 6. The necessary
 mobility is achieved by forming the holder and the
 fastening components of elastic material, such as spring
 steel or possibly reinforced plastic. The individual
 fastening components formed into spring-mounted
 clamps, can also be applied to the tree trunk by force of
 the power transmission component 48 (not pictured)
 and return to the open position due to their own resili-
 ency when the force is removed again. The spring-
 loaded fastened position of fastening components 14, 16,
 18 and 20 can be improved, and their spring-action
 return to open position facilitated, if measures are taken
 in the manufacture to weaken the material in the transi-
 tional areas between the fastening components and the
 holder, for instance by cutting notches 106 and 108 into
 each such area.
 In this variation, holder 6 and the fastening compo-
 nents 14, 16, 18 and 20 formed from it can very easily be
 cut of some flat material in a single step. The cut-out
 then simply has to be bent into a cylinder and joined at
 the edges to form cylindrical holder 6 with its upward-
 protruding fastening components. The joint is made
 according to the material used. FIG. 4 depicts a but-
 t-weld joint prescribing the cylindrical shape of holder 6
 after the flat cut-out has been bent. Aside from butt-
 weld joint 110, bolting together overlapping side portions of
 holder 6, heat welding, spot welding, gluing or similar
 methods would also be possible ways of joining the
 pieces.
 In this variation, the necessary lighter (like cable
 66, for example) is bent run through cycles attached to,
 or formed out of, the backs of the fastening components.
 The Christmas-tree stand invention 2 thus features
 the following attributes and advantages:
 While fastening components 14, 16, 18 and 20 are
 being moved from open to fastened position, which-
 ever one first connects with the tree stays there, exercis-
 ing virtually no force, until the remaining components
 have reached the trunk. Only then the tightening force
 of clamping device 46 is transmitted equally to all fas-

fastening components are pressable against a trunk of a tree; and

a single clamping device acting on all of said fastening components simultaneously, said single clamping device including:

a power transmission component mounted on said foot-piece for moving the fastening components into their fastening position with adjustable gripping force, wherein said fastening components are initially applicable to the trunk by said power transmission component basically without force and independently of each other, whereby said gripping force does not act on the trunk until all fastening components have made contact.

2. Christmas-tree stand in accordance with claim 1, wherein said fastening components are swivellable on pivot axes which all lie in the same plane, perpendicular to the axis of symmetry.

3. Christmas-tree stand in accordance with claim 1, wherein the power transmission component is applicable upon each fastening component in an area between the butt-ends and the pivot axis.

4. Christmas-tree stand in accordance with claim 1, wherein the fact that the power transmission component is made of a flexible and flexible material.

5. Christmas-tree stand in accordance with claim 1, wherein the flexible material is a steel cable.

6. Christmas-tree stand in accordance with claim 1, wherein the clamping device is a locking ratchet mechanism.

7. Christmas-tree stand in accordance with claim 1, wherein the power transmission component is a pressure line having a pressure cylinder attachable thereto which act upon the fastening components.

8. Christmas-tree stand in accordance with claim 7, wherein the clamping device is a pressure pump.

9. Christmas-tree stand in accordance with claim 7, wherein the said butt-ends are of claw shape, the trunk of the tree being penetrable by said claws by the force exerted by the clamping device through the power transmission component.

11. Christmas-tree stand in accordance with claim 10, wherein the gripping force of the said claws is exerted on the trunk in such a way as to have a component of force in the direction of the foot-piece of the stand.

12. Christmas-tree stand in accordance with claim 1, wherein the said fastening components and the holder are formed of one piece.

13. Christmas-tree stand in accordance with claim 12, wherein the fastening component and the holder are manufactured out of a pliable elastic material.

14. Christmas-tree stand in accordance with claim 13, wherein the elastic material is spring steel.

15. Christmas-tree stand in accordance with claim 13, having a transitional area between the fastening component and the holder of increased elasticity.

16. Christmas-tree stand accordance with claim 15, wherein said increased elasticity is achieved by means of a deliberate weakening of the material in that area.

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Following variations are also conceivable in connection with the invention (explained briefly):

Normally, the number of fastening components (four) depicted here is not binding. It would also be possible to install only three, or more than four such components, evenly distributed around the circumference.

Designing clamping device 46 in the form of a ratchet mechanism is also only to be regarded as one example; other clamping devices for tightening cables 66 are conceivable as well. Electric motor and lock-catch to which the tension on cable 66 necessary to operate the device 46 can be equipped with a socket into which the clamping device 46, this could be especially useful if the tree to be fastened is very capactive in its lower region, and access to ratchet bar 56 is thus restricted. Ratchet bar 66 can also feature a useful kind of remote control, by means of a pulley or the like, for example. This would have the advantage that one does not have to crawl under the tree in order to open clamping device 46, especially because the tree is usually dry and long needed by the time it is to be removed.

The position that pressure cylinder 98 is installed in, pictured in FIG. 3 is also only an example. Other positions, from which the force of pressure cylinder 98 could be applied to the fastening components, are also conceivable.

In the illustrations of FIGS. 1 and 2, cable 66 runs through drilled holes 68, 70, 72 and 74 in fastening components 14, 16, 18 and 20 by the drilled holes 68, 70, 72 and 74 in the area between the butt-ends 38, 40, 42 and 44 and the pivot axes 30, 32, 34 and 36. Therefore it may be advantageous to run cable 66 around rather than through fastening components 14, 16, 18 and 20, guided by eyeslets welded onto the fastening components or some similar device.

The inventions described are not limited to fastening Christmas-trees. On the contrary, practically any approximately pole-shaped object can be fastened with the Christmas-tree stand invented. It can hold other decorative trees, umbrellas, flagpoles, street signs etc. The inside of holder 6 and cylinder 8 would best be of waterproof build, so that holding cone 10 or cylinder 8 can be filled with water and the tree in stand 2 stays fresh longer and does not dry out.

I claim:

1. Christmas-tree stand comprising:

one foot-piece;

a plurality of fastening components mounted on said foot-piece, said fastening components having a butt- and a pivotal end arranged symmetrically around a central axis, said components being swivellable about a pivot axis proximal to said pivotal end, between an open and a fastening position in planes approximately intersecting at the central axis of symmetry, wherein the butt ends of the

AO 120 (3/85)

TO: Commissioner of Patents and Trademarks Washington, D.C. 20231	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT
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In compliance with the Act of July 19, 1952 (66 Stat. 814; 35 U.S.C. 290) you are hereby advised that a court action has been filed on the following patent(s) in the U.S. District Court:

DOCKET NO. 04CV863R(NLS)	DATE FILED 04/26/04	U.S. DISTRICT COURT United States District Court, Southern District of California
PLAINTIFF Krinner USA, Inc.		DEFENDANT Pro Performanc Sports
PATENT NO.	DATE OF PATENT	PATENTEE
1 5,114,113	05/19/04	Klaus Krinner
2		
3		
4		
5		

In the above-entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY			
	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill	<input type="checkbox"/> Other Pleading
PATENT NO.	DATE OF PATENT	PATENTEE		
1				
2				
3				
4				
5				

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT		
CLERK	(BY) DEPUTY CLERK	DATE

Copy 1 - Upon initiation of action, mail this copy to Commissioner Copy 3 - Upon termination of action, mail this copy to Commissioner
 Copy 2 - Upon filing document adding patent(s), mail this copy to Commissioner Copy 4 - Case file copy

FILED
04 APR 26 PM 4:00

JS44
(Rev. 07/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initializing the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS
KRINNER USA, INC., a Nevada Corporation

DEFENDANTS
PRO PERFORMANCE SPORTS, INC. a California Corporation, et al

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

CLERK, U.S. DISTRICT COURT
SAN DIEGO, CALIFORNIA

DEPUTY SAN DIEGO

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Michael T. McColloch, Esq. (66766)
MCCOLLOCH & CAMPITIELLO, LLP
5900 La Place Court, Suite 100
Carlsbad, CA 92008 760-804-0153

ATTORNEYS (IF KNOWN)
'04 CV 00863 R (NLS) "BY FAX"

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)

U.S. Government Defendant Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Citizen of This State	<input type="checkbox"/>	PT	DEF	Incorporated or Principal Place of Business in This State	<input type="checkbox"/>	PT	DEF
Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

PATENT INFRINGEMENT 35 USC § 271

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	PERSONAL INJURY	TORTS	PERSONAL INJURY	PROPERTY	PENALTIES/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Responsibility
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 370 Other Tort	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 375 Property Damage Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Aircraft, Label & Sticker	<input type="checkbox"/> 376 Other Personal Property Damage	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 81	PROPERTY RIGHTS	<input type="checkbox"/> 430 Rents and Leasing
<input type="checkbox"/> 140 Negotiable Instruments	<input type="checkbox"/> 330 Federal Employer's Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 390 Other Personal Property Damage	<input type="checkbox"/> 630 Labor Laws	<input type="checkbox"/> 435 Copyright	<input type="checkbox"/> 440 Commerce/ICC Rate/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 390 Other Personal Property Damage	<input type="checkbox"/> 390 Other Personal Property Damage	<input type="checkbox"/> 395 Other Personal Property Damage	<input type="checkbox"/> 640 RV & Truck	<input checked="" type="checkbox"/> 436 Patent	<input type="checkbox"/> 450 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 400 Prisoner Petitions	<input type="checkbox"/> 400 Prisoner Petitions	<input type="checkbox"/> 405 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 440 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Detained Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 410 Minimum in Vacate Sentence Habeas Corpus	<input type="checkbox"/> 410 Minimum in Vacate Sentence Habeas Corpus	<input type="checkbox"/> 415 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 480 Religious Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 415 Other Personal Property Damage	<input type="checkbox"/> 415 Other Personal Property Damage	<input type="checkbox"/> 420 Other Personal Property Damage	<input type="checkbox"/> 665 Labor	<input type="checkbox"/> 861 HIA (1995)	<input type="checkbox"/> 490 Securities/Commodity Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 420 Other Personal Property Damage	<input type="checkbox"/> 420 Other Personal Property Damage	<input type="checkbox"/> 425 Other Personal Property Damage	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 495 Consumer Challenge 12 USC
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 400 Civil Rights	<input type="checkbox"/> 425 Other Personal Property Damage	<input type="checkbox"/> 425 Other Personal Property Damage	<input type="checkbox"/> 430 Other Personal Property Damage	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 865 DWA/DWAW (405(g))	<input type="checkbox"/> 497 Agricultural Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 430 Other Personal Property Damage	<input type="checkbox"/> 430 Other Personal Property Damage	<input type="checkbox"/> 435 Other Personal Property Damage	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 866 SSID Title XVI	<input type="checkbox"/> 498 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	PRISONER PETITIONS	PRISONER PETITIONS	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	FEDERAL TAX SUITS	<input type="checkbox"/> 499 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 435 Other Personal Property Damage	<input type="checkbox"/> 435 Other Personal Property Damage	<input type="checkbox"/> 440 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 504 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 440 Other Personal Property Damage	<input type="checkbox"/> 440 Other Personal Property Damage	<input type="checkbox"/> 445 Other Personal Property Damage	<input type="checkbox"/> 750 Other Labor Litigation	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 505 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Easement	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 445 Other Personal Property Damage	<input type="checkbox"/> 445 Other Personal Property Damage	<input type="checkbox"/> 450 Other Personal Property Damage	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 510 Appraisal of Fed Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 450 Other Personal Property Damage	<input type="checkbox"/> 450 Other Personal Property Damage	<input type="checkbox"/> 455 Other Personal Property Damage			<input type="checkbox"/> 520 Constitutionality of State
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Other Civil Rights	<input type="checkbox"/> 455 Other Personal Property Damage	<input type="checkbox"/> 455 Other Personal Property Damage	<input type="checkbox"/> 460 Other Personal Property Damage			<input type="checkbox"/> 530 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 460 Other Personal Property Damage	<input type="checkbox"/> 460 Other Personal Property Damage	<input type="checkbox"/> 465 Other Personal Property Damage			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

Original Proceeding 2 Removal from State Court 3 Remanded from Appellate Court 4 Reinstated or Returned 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** **JURY DEMAND: YES NO**

VIII. RELATED CASE(S) IF ANY (See Instructions): **JUDGE** **Docket Number**

DATE April 26, 2004 **SIGNATURE OF ATTORNEY OF RECORD**

#103193 26 150 - MS
::ODMAN\DOCS\WORK\PERFECT\228161 January 24, 2000 (3:10pm)

CP