

Rec. # 2818-AA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

TECSYN, INC.,
a Delaware Corporation,

Plaintiff,

v.

BOS Automotive Products, Inc.,
Baumeister & Ostler GmbH and Co. KG,
and BOS Automotive Products, UK,

Defendants.

Marshall G. MacFarlane (P27296)
YOUNG & BASILE, P.C.
3001 W. Big Beaver, Suite 624
Troy, Michigan 48084-3107
(734) 662-0270
Attorneys for Plaintiff

Case No. _____

Hon. _____

PAUL D. BORMAN

MAGISTRATE JUDGE CAPEL

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FILED

COMPLAINT AND JURY DEMAND

1. Plaintiff, Tecsyn, Inc., is a Delaware Corporation, having its principal place of business in St. Catharines, Ontario, Canada.

2. Upon information and belief, Defendant, BOS Automotive Products, Inc., is a Delaware Corporation, having a principal place of business in Morristown, Tennessee and offices in Rochester Hills, Michigan.

3. Upon information and belief, Baumeister & Ostler GmbH and Co. KG is a German Corporation, having a principal place of business in Aichwald, Germany, and doing business within this district.

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4. Upon information and belief, BOS Automotive Products UK, is a corporation of the United Kingdom, with a principal place of business in Wrexham, United Kingdom, and doing business within this district.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, 35 U.S.C. § 100 et seq.

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338, and 35 U.S.C. §§ 271(a), (b), (c) and/or (g).

7. Upon information and belief, the Defendants have committed acts of infringement within this judicial district and conduct business within this judicial district.

8. Venue is therefore proper in the Eastern District of Michigan pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

COUNT I: PATENT INFRINGEMENT

9. The allegations of paragraphs 1-8 are incorporated herein by reference as if set forth in full.

10. On October 19, 1999, United States Letters Patent Number 5,340,004 was duly and legally reissued to Tecsyn, Inc., as the assignee of record of Polytech Netting Industries, Inc. A copy of said Reissued Patent No. 36,345 is attached to this Complaint and marked as Exhibit A.

11. The invention claimed in Reissue Patent No. 36,345 pertains to automotive

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storage nets.

12. Each of the Defendants has within the six years prior to filing of this Complaint and without license or authority from Tecsyn, Inc., practiced the invention claimed in Reissue No. 36,345 by either making, using, selling or offering to sell an automotive storage net covered by one or more of the claims of said patent. The Defendants threaten to continue to so infringe unless enjoined from doing so by this Court.

13. The Defendants have offered to sell automotive storage nets embodying the invention claimed in the '345 reissue patent as evidenced by the flyer attached hereto as Exhibit B.

14. Each of the Defendants has caused the accused infringing automotive storage net to be imported into the United States, and into this judicial district.

15. Defendant, BOS Automotive Products UK, has in fact sold in the United States and in particular in this judicial district an automotive storage net embodying the claims of the reissue patent. Photographs of the net as purchased in this judicial district are attached hereto as Exhibits C and D. The net packaging bears the label "BOS Automotive Products U K" and was purchased from a Jaguar dealership in Troy, Michigan. *See* Exhibit D.

16. Defendants have committed the aforesaid acts of infringement willfully and with full knowledge that said acts in fact infringe Plaintiff's rights. As a result of such infringement, Plaintiff has been and will continue to be greatly and irreparably damaged in an amount which cannot be ascertained except by an accounting.

PRAYER FOR RELIEF

Plaintiff, Tecsyn, Inc., prays for judgment in its favor and for the following relief, in particular:

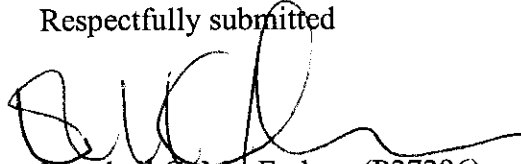
- a. For a temporary restraining order and a preliminary and permanent injunction enjoining each of the Defendants, their officers, employees, agents, successors and others acting in privity therewith from offering to sell, selling, manufacturing or using the invention claimed in the aforesaid reissue patent.
- b. An accounting and award of damages determined by and through said accounting.
- c. A trebling of the damages determined by accounting as a result of the willful and wanton nature of this infringement.
- d. For an Order finding the case to be exceptional under 35 U.S.C. § 285 and awarding Plaintiff its reasonable attorney fees as a result thereof.
- e. For any further relief this Court deems just.

JURY DEMAND

Plaintiff, Tecsyn, Inc., by and through its undersigned counsel hereby requests a trial by jury in this matter of all issues so triable.

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Respectfully submitted



Marshall G. MacFarlane (P27296)
YOUNG & BASILE, P.C.
3001 West Big Beaver, Suite 624
Troy, Michigan 48084-3107
(734) 662-0270
Attorneys for Plaintiff

DATED:

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DOCUMENTS OR PAGES
THAT WERE NOT
SCANNED