

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

APR 23 2003

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DAVID J. MALAND, CLERK

BY DEPUTY Joy M'Ewen

**WATSON & CHALIN
MANUFACTURING, INC.
Plaintiff**

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§

**CIVIL ACTION NO. 4:01-CV-266
Judge Leonard Davis**

v.

**THE BOLER COMPANY
Defendant**

JURY TRIAL DEMANDED

PLAINTIFF'S SECOND AMENDED COMPLAINT

Watson & Chalin Manufacturing, Inc. ("Watson & Chalin"), Plaintiff, files this amended complaint against Defendant, The Boler Company ("Boler") and for cause of action respectfully shows as follows:

PARTIES

1. Watson & Chalin is a Texas corporation with its principal place of business in McKinney, Collin County, Texas.
2. The Defendant, Boler, is a Delaware corporation with its principal place of business at 500 Park Boulevard, Itasca, Illinois 60143. Defendant has been served with process and has made its appearance in this action.

JURISDICTION/VENUE

3. This is an action for patent infringement under the patent laws of the United States of America pursuant to 35 U.S.C. §§ 271 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. § 1338.
4. Venue is proper in this action pursuant to 28 U.S.C. § 1400 and § 1391(b) because

Boler conducts business within this judicial district, and has engaged in acts of patent infringement within this judicial district by offering for sale, selling and/or using a product that infringes one or more of the claims of Plaintiff's patent.

PATENT INFRINGEMENT

5. The contents of the preceding paragraphs are incorporated by reference as if fully set forth herein.

6. Watson & Chalin owns all right, title and interest in United States Patent No. 4,763,953 (hereinafter the "'953" patent).

7. The Defendant has had actual and constructive notice of the '953 patent.

8. The Defendant has been and is now infringing, contributorily infringing and/or inducing infringement of the '953 patent by making, using, selling, offering to sell and/or inducing others to make, use or sell the claimed subject matter of the '953 patent without proper authorization, including the sale or use of suspension systems containing Boler's "SURELOK[®]" product produced or marketed under the name of Defendant's Hendrickson Trailer Suspension Systems division.

9. Because of such unauthorized production, use and sale of the subject matter of the '953 patent, the '953 patent has been infringed and Plaintiff is entitled to recover actual and compensatory damages as a result of the infringement.

10. Because the Defendant has willfully infringed, contributorily infringed and/or induced infringement of the '953 patent, Watson & Chalin is entitled to enhanced damages in an amount equal to at least three times the actual damages pursuant to 35 U.S.C. § 284.

11. The '953 patent is valid and presumed valid under 35 U.S.C. § 282.

ATTORNEYS FEES

12. Watson & Chalin asserts that this is an exceptional case such that the Defendant should be required to pay Watson & Chalin's reasonable costs and attorney fees in accordance with 35 U.S.C. § 285.

DEMAND FOR JURY

13. Watson & Chalin demands a jury trial for all issues pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff prays for the following relief from the Court and Jury:

(a) That the '953 patent be adjudged valid and infringed under all applicable provisions of Title 35, United States Code;

(b) That Defendant be ordered to account to Watson & Chalin for damages resulting from Defendant's infringement of the '953 patent;

(c) That this Court award Plaintiff's actual and compensatory damages resulting from the Defendant's infringing activities, together with pre-judgment and post-judgment interest and costs as provided by 35 U.S.C. § 284;

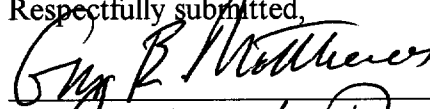
(d) That this Court order that such damages be trebled or increased as a result of the Defendant's wilful infringement as provided by 35 U.S.C. § 284;

(e) That this Court order that, because this is an exceptional case, Watson & Chalin be awarded and Defendant be ordered to pay Watson & Chalin's reasonable costs and attorneys fees pursuant to 35 U.S.C. § 285;

(f) That the Defendant and all those acting in concert with the Defendant be permanently enjoined from all future activity infringing the '953 patent;

(g) That Plaintiff be awarded such other and further relief as may be just and appropriate.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFFS

Certificate of Service

A true copy of the foregoing instrument was duly served on the following parties or counsel in the manner indicated below on April 23, 2003:

Via CM/RRR 7000 0520 0021 4946 6837

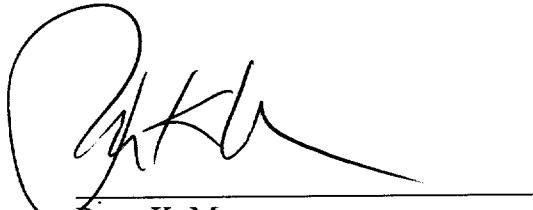
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