

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

2011 SEP 12 P 4:43

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

ACUSHNET COMPANY,

Plaintiff,

v.

JK CREW GOLF,

Defendant.

NORFOLK DIVISION
Civil Action No. 2:11CV509 - AWA/DEM

COMPLAINT

Plaintiff Acushnet Company (“Acushnet”), for its Complaint against Defendant JK Crew Golf (“JK Crew Golf”), alleges as follows:

NATURE OF THE ACTION

1. This is an action for infringement of one (1) United States Patent pursuant to the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*, and for such relief as the Court deems just and proper.

THE PARTIES

2. Acushnet is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 333 Bridge Street, Fairhaven, Massachusetts 02719.

3. On information and belief, JK Crew Golf is an Australian-based company with dual headquarters in Australia and in the United States. The U.S. headquarters is located at 404 Birkdale Court, Franklin, TN 37064.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over JK Crew at least because JK Crew has sold and continues to sell in Virginia and this judicial district the products at issue in this case.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

THE PATENT

7. U.S. Patent No. D579,996 (“the ‘996 patent”), entitled “Golf Club Head,” issued to Peter J. Gilbert, Jeffrey A. Harmet, Christopher R. Kays, Douglas C. Jorgensen, Bruce R. Pettibone, Daniel Stone, and Michael Scott Burnett on November 4, 2008. The application for the ‘996 patent was filed on September 11, 2007. A copy of the ‘996 patent is attached hereto as Exhibit 1. The following figure from the ‘996 patent shows certain features of the unique design:

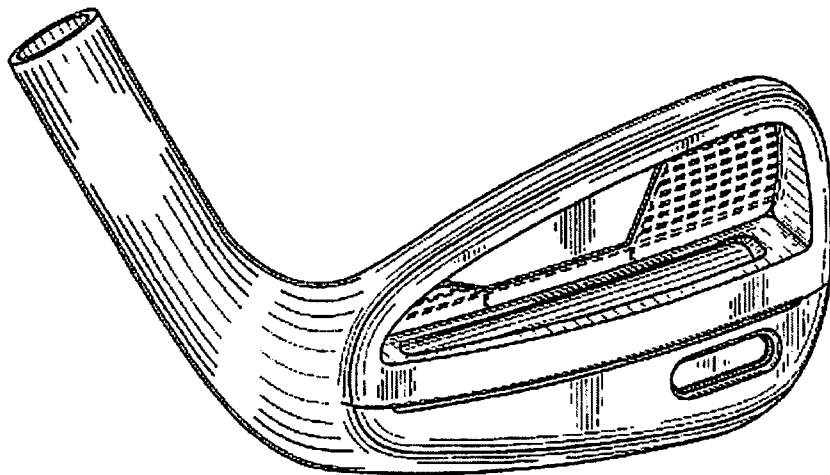


FIG. 1

8. Acushnet is the owner, by assignment, of the ‘996 patent.

FACTUAL BACKGROUND AND CONTROVERSY

9. Acushnet is a market leader in the manufacture and design of golf equipment. Acushnet develops and sells golf products in this district, throughout the United States, and throughout the world under the brand names of Titleist[®], FootJoy[®], Pinnacle[®], and Scotty Cameron[®]. Among Acushnet's Titleist[®] product offerings are golf clubs, and more specifically, golf clubs commonly known as "irons."

10. To maintain its reputation as a premier golf club manufacturer, Acushnet has developed and continues to develop new technologies and ornamental designs for use in and on its golf clubs.

11. In 2008, Acushnet introduced its Titleist[®] AP2 forged irons, of which its ornamental features are disclosed and claimed in the '996 patent.

12. JK Crew Golf advertises itself and its products as "A New Spin on Old Tradition" and further includes in its sales pitch:

People tend to think big brand products are superior. That they must buy big brand name products in order to get good quality, but this just isn't so.

THE FACT REMAINS...

Big brands take advantage of their name and buyers over pay for a product that has no advantages.

Instead of the big brands putting all that extra money into the clubs, the money goes to the large salaries and sponsorships of pro golfers.

At JK Crew Golf we believe that our customers deserve the highest quality golfing equipment with a competitive price tag.

See Exhibit 2 at Page 1.

13. JK Crew Golf sells the infringing products on at least its website at www.jkcrewgolf.com in eight (8) piece iron sets as C-10 Dual Cavity Backs. See Exhibit 2 at Pages 2-3. Photographs of the infringing products are attached as Exhibit 3.

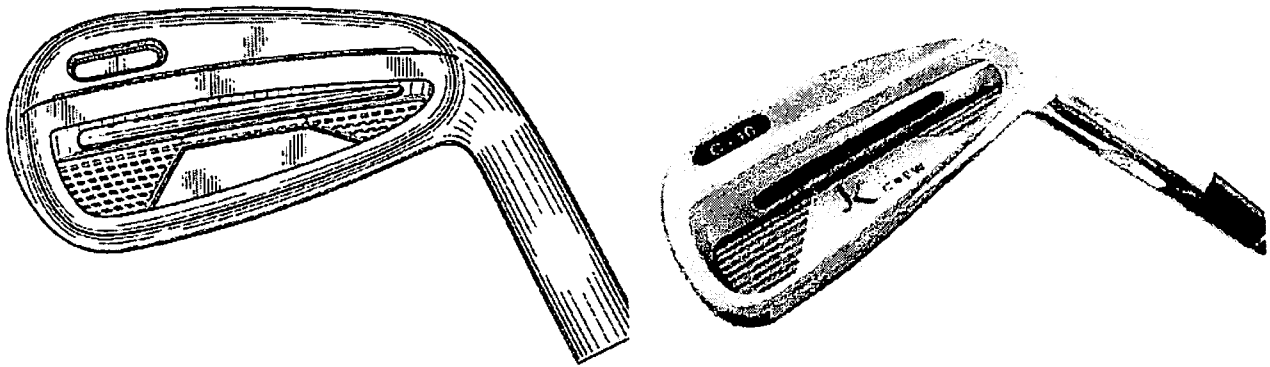
14. On information and belief, for the purposes of marketing its products in the United States, JK Crew Golf offers eleven (11) contacts spread across various states in the U.S., two U.S. (2) regional sales managers, and one (1) national sales manager. See Exhibit 2 at Page 4.

COUNT I

(Infringement of the '996 Patent)

15. Acushnet incorporates and realleges the allegations of paragraphs 1 through 14 as if fully set forth herein.

16. On information and belief, JK Crew Golf has in the past and continues to infringe, directly, or under the doctrine of equivalents, the '996 patent by offering for sale and/or selling golf clubs, including, but not necessarily limited to the C-10 Dual Cavity Back golf clubs in the United States that are within the scope of the '996 patent. As the photographs in Exhibit 3 indicate, the design of the infringing products are the same or substantially the same to the eye of the ordinary observer as the ornamental design claimed in the '996 patent. The comparisons attached as Exhibit 4 exemplify how the design of the infringing products is the same or substantially similar to the design claimed in the '996 patent. Shown below is Figure 1 of the '996 patent side-by-side with a picture of one of the infringing products.



17. On information and belief, JK Crew Golf has in the past and continues to infringe by actively inducing others to infringe the '996 patent by selling its C-10 Dual Cavity Back golf clubs in the United States that are within the scope of the '996 patent, and by inducing others to do so.

18. On information and belief, JK Crew Golf has in the past and continues to contributorily infringe the '996 patent by selling its C-10 Dual Cavity Back golf clubs in the United States that are within the scope of the '996 patent.

19. On information and belief, the infringement of the '996 patent has been with notice and has been willful.

PRAYER FOR RELIEF

WHEREFORE, Acushnet prays for the following relief:

a. A judgment in favor of Acushnet, declaring that JK Crew Golf has infringed, directly or indirectly, the '996 patent;

b. A judgment in favor of Acushnet, declaring that JK Crew Golf's infringement of the '996 patent has been willful and trebling damages awarded to Acushnet, as provided by 35 U.S.C. § 284;

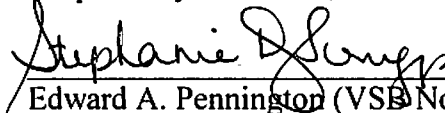
- c. An award to Acushnet of all damages adequate to compensate Acushnet for all acts of infringement of the '996 patent by JK Crew Golf, but in no event less than a reasonable royalty, together with pre-judgment and post-judgment interest and costs fixed by the Court, as provided by 35 U.S.C. § 284;
- d. A declaration that this is an exceptional case under 35 U.S.C. § 285 and an award to Acushnet for its attorneys' fees incurred in prosecuting this action; and
- e. Any such other and additional relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Acushnet demands a trial by jury on all issues so triable.

Dated: September 12, 2011

Respectfully submitted,



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