

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UTICA CUTLERY COMPANY, INC.,

Plaintiff,

-vs-

Civil Action No.:

BELL AUTOMOTIVE PRODUCTS, INC.,

Defendant.

Plaintiff, Utica Cutlery Company, Inc., for its Complaint as against Defendant Bell Automotive Products, Inc. alleges as follows:

1. Plaintiff Utica Cutlery Company, Inc. (“Utica Cutlery”), is a New York corporation with its principal place of business in 820 Noyes Street, Utica, New York.
2. Upon information and belief, Bell Automotive Products, Inc. (“Bell”) is an Arizona corporation with its principal place of business at 8388 East Hartford Drive, Scottsdale, Arizona.
3. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.
4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b) as Defendant has placed allegedly infringing goods in interstate commerce that have been sold within the Northern District of New York including at a Kmart store in New Hartford, New York.

5. On September 14, 1999, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 5,950,265 (“the ’265 patent”) entitled MULTIPLE PURPOSE POCKET TOOL to Utica Cutlery Company. A copy of the ’265 patent is attached as Exhibit A.

6. Utica Cutlery has been the lawful owner of all right, title and interest in the ’265 patent at all times since it issued.

7. Defendant has been and still is infringing one or more of the claims of the ’265 patent by importing into the United States, using, selling and offering for sale multiple purpose pocket tools that are covered by at least one claim of the ’265 patent.

8. Utica Cutlery has suffered damage by reason of Defendant’s infringement of the ’265 patent, and will continue to suffer additional damage unless this Court enjoins Defendant from continuing such infringing acts in the future.

9. Defendant’s infringement has been deliberate and in willful disregard of Utica Cutlery’s rights in the ’265 patent.

10. Utica Cutlery has no adequate remedy at law.

Utica Cutlery hereby demands a trial by jury.

WHEREFORE, Utica Cutlery seeks judgment against Plaintiff:

- a. Preliminarily and permanently enjoining Defendant from infringing the ’265 patent;
- b. Awarding Utica Cutlery damages to compensate for Defendant’s infringement of the ’265 patent;
- c. Awarding treble damages for Defendant’s willful infringement of the ’265 patent;

- d. Awarding interest on the amount of damages found, including prejudgment interest;
- e. Awarding Utica Cutlery its costs in this action, including reasonable attorneys' fees; and
- f. Granting such other and further relief that the Court deems just and proper.

Dated: January 7, 2005

WALL MARJAMA & BILINSKI LLP

By: s/ James R. Muldoon

James R. Muldoon

Bar Roll No.: 506772

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Attorneys for Plaintiff

Utica Cutlery Company, Inc.

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