

CIVIL COVER SHEET

County in which action arose Wayne

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 initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Amerigon Inc.

DEFENDANTS

W.E.T. Automotive Systems Limited

(b) County of Residence of First Listed Plaintiff Wayne
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Ontario, Canada
(IN U.S. PLAINTIFF CASES ONLY)

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
(See Attached)

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 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)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input checked="" type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
35 U.S.C. § 271

Brief description of cause:
Patent Infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ To be Determined CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

Victori A. Roberts

DOCKET NUMBER

2:10-cv-10527

DATE December 10 2010 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

Douglas G. Muehlhauser

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☒ Yes

☐ No

If yes, give the following information:

Court: U.S. District Court, Central District of California

Case No.: 2:09-cv-08466-RGK-RC

Judge: R. Gary Klausner

Notes :

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Civil Action No.

AMERIGON INC.,

Plaintiff,

v.

W.E.T. AUTOMOTIVE SYSTEMS
LIMITED,

DEMAND FOR JURY TRIAL

Defendant.

ATTACHMENT TO CIVIL CASE COVER SHEET

1.(c) Attorney's (Firm Name, Address and Telephone Number)

Knobbe, Martens, Olson & Bear, LLP; 2040 Main Street, 14th Floor, Irvine, CA 92614; (949) 760-0404; Attorneys: Douglas G. Muehlhauser (CA 179,495)

Honigman Miller Schwartz and Cohn LLP; 2290 First National Building, Detroit, MI 48226-2506; (313) 465-7608; Attorneys: I.W. Winsten (P30528)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Civil Action No.

AMERIGON INC.,

Plaintiff,

v.

W.E.T. AUTOMOTIVE SYSTEMS
LIMITED,

DEMAND FOR JURY TRIAL

Defendant.

AMERIGON INC.'S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Amerigon Inc. ("Amerigon") hereby complains of Defendant W.E.T. Automotive Systems Limited ("W.E.T") and alleges as follows:

I. JURISDICTION AND VENUE

1. This Complaint is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 100 *et seq.*, and, more particularly, 35 U.S.C. §§ 271 and 281. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. Upon information and belief, W.E.T. conducts business throughout the United States, including in this judicial district, and, by itself or through intermediaries, has committed the acts complained of in this judicial district and elsewhere.

3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

II. PARTIES

4. Amerigon is a Michigan corporation having a principal place of business at 21680 Haggerty Road, Suite 101, Northville, Michigan 48167.

5. On information and belief, W.E.T. is an Ontario and/or Canadian corporation. W.E.T. has alleged, and on that basis Amerigon alleges, that W.E.T. has a principal place of business at 3445 Wheelton Drive, Windsor, Ontario, NW8 5A6, Canada.

III. ALLEGATIONS FOR ALL CLAIMS OF RELIEF

6. On January 28, 1997, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 5,597,200, which it reissued on September 28, 2010 as U.S. Patent No. RE41,765 (“the ’765 patent”), titled “Variable Temperature Seat.” Amerigon owns the ’765 patent by assignment. A copy of the ’765 patent is attached hereto as Exhibit 1.

7. On November 9, 2010, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,827,805 (“the ’805 patent”) titled “Seat Climate Control System.” Amerigon owns the ’805 patent by assignment. A copy of the ’805 patent is attached hereto as Exhibit 2.

8. W.E.T., through its agents, employees and servants, has infringed, actively induced others to infringe and/or contributed to others’ infringement of one or more claims of each of the ’765 and ’805 patents under 35 U.S.C. § 271 by manufacturing, using, promoting, offering for sale, selling and/or importing products, including systems and methods for heating and/or cooling seats, covered by one or more claims of each of the ’765 and ’805 patents.

IV. FIRST CLAIM FOR RELIEF

Infringement of U.S. Patent No. RE41,765

9. Amerigon incorporates by reference the allegations set forth in paragraphs 1–8 of this Complaint.

10. This is a claim for patent infringement and arises under the Patent Laws of the United States, Title 35 of the United States Code.

11. Without authority, W.E.T., through its agents, employees and servants, has manufactured, used, promoted, offered for sale, and/or sold within the United States, and/or imported into the United States products covered by one or more claims of the ’765 patent, has actively induced others to do the same and/or has contributed to others’ performance of the same.

W.E.T. has thereby infringed, actively induced others to infringe and/or contributed to others' infringement of one or more claims of the '765 patent in violation of 35 U.S.C. § 271, including 35 U.S.C. §§ 271(a), (b) and/or (c). This infringement is currently ongoing. The products relating to W.E.T.'s infringement include W.E.T.'s ActiveCools and ComfortCools products.

12. Upon information and belief, W.E.T.'s infringement will continue unless enjoined by this Court.

13. Upon information and belief, W.E.T. has derived, received, and will continue to derive and receive gains, profits and advantages from the aforesaid acts of infringement in an amount that is not presently known to Amerigon. Due to W.E.T.'s infringement of the '765 patent, Amerigon has been damaged and is entitled to monetary relief in an amount to be determined at trial.

14. Unless W.E.T. is enjoined from infringing the '765 patent, Amerigon will continue to suffer irreparable injury for which it has no adequate remedy at law.

V. SECOND CLAIM FOR RELIEF

Infringement of U.S. Patent No. 7,827,805

15. Amerigon incorporates by reference the allegations set forth in paragraphs 1–8 of this Complaint.

16. This is a claim for patent infringement and arises under the Patent Laws of the United States, Title 35 of the United States Code.

17. Without authority, W.E.T., through its agents, employees and servants, has manufactured, used, promoted, offered for sale, and/or sold within the United States, and/or imported into the United States products covered by one or more claims of the '805 patent, has actively induced others to do the same and/or has contributed to others' performance of the same. W.E.T. has thereby infringed, actively induced others to infringe and/or contributed to others' infringement of one or more claims of the '805 patent in violation of 35 U.S.C. § 271, including 35 U.S.C. §§ 271(a), (b) and/or (c). This infringement is currently ongoing. The products relating to W.E.T.'s infringement include W.E.T.'s ActiveCools products.

18. Upon information and belief, W.E.T.'s infringement will continue unless enjoined by this Court.

19. Upon information and belief, W.E.T. has derived, received, and will continue to derive and receive gains, profits and advantages from the aforesaid acts of infringement in an amount that is not presently known to Amerigon. Due to W.E.T.'s infringement of the '805 patent, Amerigon has been damaged and is entitled to monetary relief in an amount to be determined at trial.

20. Unless W.E.T. is enjoined from infringing the '805 patent, Amerigon will continue to suffer irreparable injury for which it has no adequate remedy at law.

PRAYER FOR JUDGMENT AND RELIEF

WHEREFORE, Amerigon requests judgment as follows:

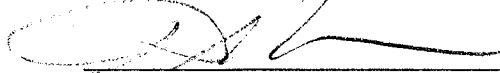
- A. An order adjudging W.E.T. to have infringed the '765 and '805 patents;
- B. A permanent injunction enjoining W.E.T., as well as its officers, agents, servants, employees, and attorneys and those persons in active concert or participation with W.E.T., from infringing each of the '765 and '805 patents;
- C. An accounting of all gains, profits, and advantages derived by W.E.T.'s infringement of the '765 and '805 patents and for damages adequate to compensate Amerigon for W.E.T.'s infringement of the '765 and '805 patents;
- D. An order declaring this to be an exceptional case;
- E. An award of pre-judgment and post-judgment interest and costs of this action against W.E.T.;
- F. An award to Amerigon of its attorneys' fees incurred in connection with this action; and
- G. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), plaintiff Amerigon Inc. hereby demands a trial by jury on all issues so triable.

Date: December 10, 2010

Respectfully submitted,



Douglas G. Muehlhauser
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614
Telephone: (949) 760-0404
Facsimile: (949) 760-9502
doug.muehlhauser@kmob.com

I.W. Winsten (P30528)
Honigman Miller Schwartz and Cohn LLP
2290 First National Building
Detroit, MI 48226-2506
(313) 465-7608
iww@honigman.com

*Attorneys for Plaintiff
Amerigon Inc.*

10078152

