

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

CORRECT CRAFT, INC., a Florida  
corporation,

Plaintiff,

CASE NO. 6:04-CV-1673-ORL-28KRS

vs.

COMPLAINT

SAMSON SPORTS, LLC,  
a limited liability corporation,

Defendant.

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**ACTION FOR INFRINGEMENTS OF UNITED STATES  
PATENTS, FOR UNFAIR COMPETITION.  
JURY TRIAL AND INJUNCTIVE RELIEF REQUESTED**

COMES NOW Plaintiff Correct Craft, Inc. ("Plaintiff") through its undersigned counsel, and for its complaint against Defendant Samson Sports, LLC ("Defendant"), states:

**Parties, Jurisdiction and Venue**

1. Plaintiff is a Florida corporation with its principal place of business within this Judicial District and Division.
2. Upon information and belief, Defendant is a limited liability corporation organized and doing business under the laws of a state other than Florida, with offices in Washougal, Washington.
3. Upon information and belief, Defendant offers for sale and sells throughout the United States, including within this Judicial District and Division, towers for recreational

waterski and wakeboarding tow boats. Upon further information and belief, these activities are carried out by this Defendant, *inter alia*, through an internet web site, sales through advertisements distributed throughout the United States and offers for sale at trade shows throughout the United States.

4. As set out in greater detail below, Counts One - Five are actions by Plaintiff against Defendant for infringements of Plaintiff's United States Patents RE 37,823; 6,192,819; 6,374,762; 6,666,159; and D462,932.

5. As also set out in greater detail below, Counts Six and Seven are actions for unfair competition arising from Defendant's use in advertising of Plaintiff's registered trademark NAUTIQUE and images of boats manufactured by Plaintiff.

6. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. 1338(a), and has personal jurisdiction over Defendant in accordance with applicable laws. Venue properly lies in this judicial district and division under 28 U.S.C. §1391(c) and (d).

#### **Statement of Facts**

7. "Wakeboarding" is a recreational boating activity in which a participant standing upon a wakeboard is pulled behind a recreational tow boat and attempts to perform tricks across the wake of the boat.

8. On November 9, 1999, the United States Commissioner of Patents and Trademarks issued U.S. Patent 5,979,350 for "Water Sport Towing Apparatus and Method". U.S. Patent 5,979,350 was reissued as U.S. Patent RE 37,823 on September 3, 2002.

9. A true and correct copy of U.S. Patent RE 37,823 is appended as Exhibit 1.

10. U.S. Patent RE 37,823 has been assigned to Plaintiff.

11. On February 27, 2001, the United States Commissioner of Patents and Trademarks issued U.S. Patent 6,192,819 for "Water Sports Towing Apparatus." A true and correct copy of U.S. Patent 6,192,819 is attached as Exhibit 2.

12. U.S. Patent 6,192,819 has been assigned to Plaintiff.

13. On April 23, 2002, the United States Commissioner of Patents and Trademarks issued U.S. Patent 6,374,762. A true and correct copy of this patent is appended as Exhibit 3.

14. U.S. Patent and 6,374,762 has been assigned to Plaintiff.

15. On December 23, 2003, the United States Commissioner of Patents and Trademarks issued U.S. Patent 6,666,159 for "Water Sport Towing Apparatus." A true and correct copy of U.S. Patent 6,666,159 is attached as Exhibit 4.

16. U.S. Patent 6,666,159 has been assigned to Plaintiff.

17. On September 17, 2002, the United States Commissioner of Patents and Trademarks issued U.S. Patent D.462,932 for "Water Sports Towing Device." A true and correct copy of U.S. Patent D.462,932 is attached as Exhibit 5.

18. U.S. Patent D.462,932 has been assigned to Plaintiff.

19. Plaintiff offers non-exclusive licenses under the patents of Exhibits 1-5.

20. Defendant has not obtained a license under Plaintiff's patents.

21. Plaintiff has for many years extensively used the mark NAUTIQUE in connection with recreational watersports vessels and accessories. As a result of Plaintiff's extensive uses of the mark NAUTIQUE and the quality of Plaintiff's products, Plaintiff enjoys significant goodwill as represented by that mark.

22. Without Plaintiff's authorization, Defendant has utilized in its advertising Plaintiff's NAUTIQUE mark and images of Plaintiff's recreational vessels bearing that mark.

**Count One**

**Action For Infringements of U.S. Patents RE 37,823 and 5,979,350**

23. This Count One is an action by Plaintiff against Defendant to obtain monetary damages and for injunctive relief for infringements by Defendant of Plaintiff's U.S. Patents RE 37,823 and 5,979,350.

24. Plaintiff here restates and incorporates by reference into this Count One the allegations of ¶¶1-20 above, inclusive.

25. Upon information and belief, Defendant has offered for sale, sold and/or distributed towers for recreational tow boats which are designed specifically for wakeboard use and which infringe U.S. Patents RE 37,823 and 5,979,350.

26. The infringing activities of Defendant outlined in this Count One have been engaged in without authorization of Plaintiff either directly, contributorily, or by inducing third parties to infringe.

27. Plaintiff is entitled to compensatory damages and injunctive relief for the infringing activities outlined in this Count One.

28. Upon information and belief, the activities of Defendant outlined in this Count One have been engaged in without a justifiable belief by Defendant that all of the relevant claims of U.S. Patents RE 37,823 and 5,979,350 are invalid or have not been infringed. Therefore, Plaintiff is entitled to an award of exemplary damages, attorneys' fees and costs of this action.

**Count Two**

**Action for Infringement of U.S. Patent 6,192,819**

29. This Count Two is an action by Plaintiff against Defendant to obtain monetary damages and for injunctive relief for infringements by Defendant of Plaintiff's U.S. Patent 6,192,819.

30. Plaintiff here restates and incorporates by reference into this Count Two the allegations of ¶¶1-20 above, inclusive.

31. Upon information and belief, Defendant has offered for sale, sold and/or distributed towers for recreational tow boats which are designed specifically for wakeboard use and which infringe U.S. Patent 6,192,819.

32. The infringing activities of Defendant outlined in this Count Two have been engaged in without authorization of Plaintiff either directly, contributorily, or by inducing third parties to infringe.

33. Plaintiff is entitled to compensatory damages and injunctive relief for the infringing activities outlined in this Count Two.

34. Upon information and belief, the activities of Defendant outlined in this Count Two have been engaged in without a justifiable belief by Defendant that all of the relevant claims of U.S. Patent 6,192,819 are invalid or have not been infringed. Therefore, Plaintiff is entitled to an award of exemplary damages, attorneys' fees and costs of this action.

**Count Three**

**Action For Infringement of U.S. Patent 6,374,762**

35. This Count Three is an action by Plaintiff against Defendant to obtain monetary damages and injunctive relief for infringements by Defendant of Plaintiff's U.S. Patent 6,374,762.

36. Plaintiff here restates and incorporates by reference into this Count Three the allegations of ¶¶1-20 above, inclusive.

37. Upon information and belief, Defendant has offered for sale, sold and/or distributed towers for recreational tow boats which are designed specifically for wakeboard use and which infringe U.S. Patent 6,374,762.

38. The infringing activities of Defendant outlined in this Count Three have been engaged in without authorization of Plaintiff either directly, contributorily, or by inducing third parties to infringe.

39. Plaintiff is entitled to compensatory damages and injunctive relief for the infringing activities outlined in this Count Three.

40. Upon information and belief, the activities of Defendant in this Count Three have been engaged in without a justifiable belief by Defendant that all of the relevant claims of U.S. Patent 6,374,762 are invalid or have not been infringed. Therefore, Plaintiff is entitled to an award of exemplary damages, attorneys' fees and costs of this action.

**Count Four**

**Action for Infringement of U.S. Patent 6,666,159**

41. This Count Four is an action by Plaintiff against Defendant to obtain monetary damages and for injunctive relief for infringements by Defendant of Plaintiff's U.S. Patent 6,666,159.

42. Plaintiff here restates and incorporates by reference into this Count Four the allegations of ¶¶1-20 above, inclusive.

43. Upon information and belief, Defendant has offered for sale, sold and/or distributed towers for recreational tow boats which are designed specifically for wakeboard use and which infringe U.S. Patent 6,66,159.

44. The infringing activities of Defendant outlined in this Count Four have been engaged in without authorization of Plaintiff either directly, contributorily, or by inducing third parties to infringe.

45. Plaintiff is entitled to compensatory damages and injunctive relief for the infringing activities outlined in this Count Four.

46. Upon information and belief, the activities of Defendant outlined in this Count Four have been engaged in without a justifiable belief by Defendant that all of the relevant claims of U.S. Patent 6,666,159 are invalid or have not been infringed. Therefore, Plaintiff is entitled to an award of exemplary damages, attorneys' fees and costs of this action.

**Count Five**

**Action for Infringement of U.S. Patent D.462,932**

47. This Count Five is an action by Plaintiff against Defendant to obtain monetary damages and for injunctive relief for infringements by Defendant of Plaintiff's U.S. Patent D.462,932.

48. Plaintiff here restates and incorporates by reference into this Count Five the allegations of ¶¶1-20 above, inclusive.

49. Upon information and belief, Defendant has offered for sale, sold and/or distributed towers for recreational tow boats which are designed specifically for wakeboard use and which infringe U.S. Patent D.462,932.

50. The infringing activities of Defendant outlined in this Count Five have been engaged in without authorization of Plaintiff either directly, contributorily, or by inducing third parties to infringe.

51. Plaintiff is entitled to compensatory damages and injunctive relief for the infringing activities outlined in this Count Five.

52. Upon information and belief, the activities of Defendant outlined in this Count Five have been engaged in without a justifiable belief by Defendant that all of the relevant claims of U.S. Patent 6,666,159 are invalid or have not been infringed. Therefore, Plaintiff is entitled to an award of exemplary damages, attorneys' fees and costs of this action.



**Count Six**

**Action for Violations of 15 U.S.C. §1125(a)**

53. This Count Six is an action seeking monetary damages and injunctive relief for Defendant's violations of 15 U.S.C. §1125(a).

54. Plaintiff here restates and incorporates by reference into this Count Six the allegations of ¶¶1-22 above, inclusive.

55. Defendant's conduct as outlined in this Count Six is likely to cause confusion, or to cause mistake, or to deceive Plaintiff's actual and prospective customers as to a purported affiliation, connection or association of Defendant with Plaintiff, or as to the origin, sponsorship or approval of Defendant's commercial activities by Plaintiff; or in connection with Defendant's commercial advertising or promotion, misrepresent the nature, characteristics, quality of origin of Defendant's products.

56. Plaintiff has suffered monetary damages by reason of Defendant's conduct outlined in this Count Six, and will continue to suffer an irreparable injury unless Defendant's activities are preliminarily and then permanently enjoined.

57. Upon information and belief, the activities of Defendant engaged in this Count Six were undertaken with a willful, wanton or reckless disregard for Plaintiff's rights, justifying an award of exemplary damages.

**Count Seven**

**Action for Common Law Unfair Competition**

58. This Count Seven is an action by Plaintiff against Defendant for common law unfair competition.

59. Plaintiff here restates and incorporates by reference into this Count Seven the allegations of ¶¶1-7, 21-22 and 53-56 above, inclusive.

60. Defendant's conduct as outlined in this Count Seven is likely to cause confusion, or to cause mistake, or to deceive Plaintiff's actual and prospective customers as to a purported affiliation, connection or association of Defendant with Plaintiff, or as to the origin, sponsorship or approval of Defendant's commercial activities by Plaintiff; or in connection with Defendant's commercial advertising or promotion, misrepresent the nature, characteristics, quality of origin of Defendant's products.

61. Plaintiff has suffered monetary damages by reason of Defendant's conduct outlined in this Count Seven, and will continue to suffer an irreparable injury unless Defendant's activities are preliminarily and then permanently enjoined.

62. Upon information and belief, the activities of Defendant engaged in this Count Seven were undertaken with a willful, wanton or reckless disregard for Plaintiff's rights, justifying an award of exemplary damages.

**Demand for Jury Trial**

Plaintiff requests a trial by jury.

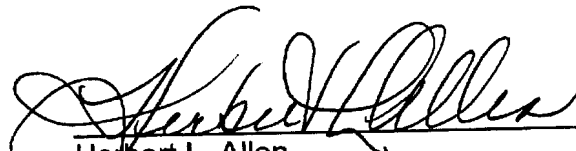
**Prayer for Relief**

WHEREFORE, Plaintiff Correct Craft respectfully prays that this Honorable Court enter such preliminary and final Orders, Judgments and Injunctions as are necessary to provide the following relief:

- a. Under Counts One-Five, a preliminary and then permanent injunction enjoining Defendant from infringing Plaintiff's patents;

- b. Under Counts One-Five, an award of damages under 35 U.S.C. §284 in an amount adequate to compensate for Defendant's infringements, but in no event less than a reasonable royalty for the use made by Defendant of Plaintiff's patents;
- c. Under Counts One-Five, an award of exemplary damages, attorney's fees and costs under 35 U.S.C. §285;
- d. Under Counts Six and Seven, a preliminary and then permanent injunction enjoining Defendant from using Plaintiff's NAUTIQUE mark and/or Plaintiff's vessels in Defendant's advertising;
- e. Under Count Six, an award of compensatory damages and attorney's fees under 15 U.S.C. §1117;
- f. Under Count Seven, an award of compensatory and punitive damages; and
- g. Such other relief as the Court deems appropriate.

Date: 11/16/04



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