

UNITED STATE DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

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Head USA Inc.

Plaintiff,

V.

Docket No.: \_\_\_\_\_

JENS ERIK SORENSEN (as Trustee of the Sorensen  
Research and Development Trust), AND  
SORENSEN RESEARCH AND  
DEVELOPMENT TRUST

**JURY DEMANDED**

Defendants.

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**COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiff Head USA Inc. by and through Votre & Associates, P.C., alleges as follows:

**NATURE OF ACTION**

1. Plaintiff Head USA Inc. ("Head") brings this action for declaratory relief, requesting the Court to declare that United States Patent 4,935,184 ("the '184 patent") is not infringed by Head or is invalid or both.

**PARTIES**

2. Head is a corporation organized under the laws of Connecticut with its principal place of business located at 1 Selleck Street, Norwalk, Connecticut, 06855.

3. Upon information and belief, Jens Ole Sorensen is the named inventor of the '184 patent, and an individual claiming residence at Box 221, North Side, 382 Water Kay Road,

Cayman Kai, Grand Cayman Islands.

4. Defendant Jens Erik Sorensen is, upon information and belief, trustee of the Sorensen Research and Development Trust (“the Sorensen Trust”).

5. Defendant Sorensen Trust, upon information and belief, has a principal place of business at 9930 Mesa Rim Road, San Diego, California, 92121. Sorensen Trust further claims to be the owner of all substantial rights in the ‘184 patent.<sup>1</sup>

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over the parties and subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1338, 2201, 2202 and the United States Patent Laws, 35 U.S.C. §§ 1 *et seq.*

7. Venue in this district is proper under 28 U.S.C. §§ 1391 and 1400(b), because potential witnesses reside in or near the District of Connecticut and because Connecticut is the center of the accused activity.

8. Personal jurisdiction over defendants is proper because, upon information and belief, defendants routinely license the technology that is the subject of the ‘184 patent to large, multi-national corporations throughout the world. Further, counsel for defendants have

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<sup>1</sup> United States Patent No. 4,935,184 lists Primtec as the Assignee. However, the California Secretary of State reveals that Primtec, formerly located in Rancho Santa Fe, California, has been dissolved. In correspondence dated November 10, 2004, counsel for Sorensen Trust represented that the Trust is the current owner of the ‘184 patent.

repeatedly directly contacted plaintiff for the express purpose of taking a paid-up license for the technology covered in the '184 patent and for the purpose of threatening a lawsuit against Head for alleged infringement of the '184 patent. *See* Exhibit 1. That is to say, defendants have, at least since 2004, solicited business in Connecticut in the form of proposing a licensing arrangement with Head.

9. This is an action for declaratory judgment under the provisions of 28 U.S.C. §§ 2201 and 2202. An actual and substantial justiciable controversy exists between Head and defendants as to the validity and enforceability of the '184 patent, and as to whether Head has infringed or is infringing the '184 patent.

10. Sorensen Trust has alleged that it is the owner of the '184 patent.

11. The '184 patent, issued on June 19, 1990 and entitled "Stabilized Injection Molding When Using a Common Mold Part with Separate Complimentary Mold Parts", concerns a method for injection molding thin-walled hollow plastic products, in a two-step sequential molding process. A copy of the '184 Patent is attached as Exhibit 1.

12. On November 10, 2004, counsel for Sorensen Trust sent a letter to Mr. David Haggerty, Chief Executive Officer of Head USA Inc., in Connecticut, alleging that after examining samples of selected Head ski boot products<sup>2</sup> Sorensen Trust had determined that Head

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<sup>2</sup> Specifically, Sorensen Trust alleged the following Head products infringed the '184 patent because they were manufactured using the same injection molding process that is the subject of the '184 patent: (1) Head RS80 HeatFit Ski Boot; (2) Head RS100 SuperHeat3 Ski Boot; (3) Head S12 SuperHeat3 Ski Boot; and (4) Head S10 HeatFit Lady Ski Boot.

was infringing the '184 patent. In the November 10, 2004 letter, counsel for Sorensen Trust offered Head a paid-up license for the technology covered in the '184 patent.

14. On December 9, 2004, Mr. Alberto Cendesi, Sales and Marketing Manager for HTM Sport SPA, Head's parent company ("HTM"), replied to counsel for Sorensen Trust that the matter was under investigation.

15. On May 4, 2005, counsel for Sorensen Trust directed a letter to Mr. Alberto Cendesi at HTM. In the May 4, 2005 letter, counsel for Sorensen Trust continued to assert Head was infringing the '184 patent and further offered HTM a paid-up license for use of the technology covered in the '184 patent and indicated that Sorensen Trust's "patience and forbearance from initiating legal action against Head cannot be continued indefinitely."

16. On May 30, 2005, counsel for HTM sent a letter to counsel for Sorensen Trust arguing that the products in question do not infringe the claims of the '184 patent.

17. On June 24, 2005, counsel for Sorensen Trust repeated its allegations of infringement in a letter directed to HTM's legal counsel. Again, the letter offered Head to enter into a paid-up license for use of the technology covered in the '184 patent. The letter of June 24 further indicated that "There is a narrow window of opportunity at this late stage wherein the parties can still resolve this matter without incurring high costs and legal fees through amicable discussions leading up to a license agreement" and that Sorensen Trust is prepared to take all appropriate legal action to protect its intellectual property rights, including bringing a lawsuit.

18. In a letter dated July 20, 2005, counsel for HTM repeated its arguments for non-infringement with a more detailed analysis.

19. In a letter dated April 25, 2006, The Sorensen Trust, through another attorney, notified Mr. David Haggerty of Head, that Head never responded to Sorensen's original letter of November 2004 and that Head is the proper entity for responding thereto, not HTM, since Head has liability under 35 U.S.C. 271 for infringement of the '184 patent, not HTM. Once again, counsel for the Sorensen Trust offered a paid-up license for use of the technology in the '184 patent.<sup>3</sup> The April 25, 2006 letter further indicates that counsel for the Sorensen Trust is "in preparation stages for this litigation and that the offer for the license would expire on May 26, 2006.

20. After being retained by Head and contacting counsel for the Sorensen Trust by telephone, counsel for the Sorensen Trust sent a letter dated June 1, 2006 to counsel for Head confirming an extension of time for responding to the letter of April 25, 2006 to June 26, 2006. In the letter of June 1, 2006, counsel for the Sorensen Trust further indicated, "my client's patience is wearing thin."

21. Based upon the above-described written correspondence, there exists an immediate threat that the Trust will initiate a patent infringement lawsuit against Head and/or

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<sup>3</sup> The amount of the offer for the paid-up license has steadily increased from the November 10, 2004 letter to the letter of April 25, 2006. The original offer was for \$200,000 in the letter of November 10, 2004, then increased to \$220,000 and finally to \$240,000 in the letter of April 25, 2006.

take other action against it pertaining to its alleged infringement of the '184 patent.

22. Head denies that it infringes any valid claim of the '184 Patent.

23. The '184 Patent is invalid as anticipated, for obviousness, for indefiniteness and for other grounds under title 35 of the United States Code.

24. An actual and justicable controversy exists between Head and the Defendants concerning whether Head infringes any valid claim of the '184 Patent and concerning the validity and enforceability of the '184 Patent.

**FIRST COUNT**  
**NON-INFRINGEMENT**

25. Plaintiff repeats and re-alleges, as though fully set forth herein, the allegations contained in Paragraphs 1 through 24 of this Complaint.

26. Upon information and belief, Head has not infringed, is not infringing, and has not contributed to or induced others to infringe any valid claim of the '184 Patent as properly construed.

27. Head is entitled to a declaration from the Court that it has never directly infringed (and is not directly infringing) the '184 patent, and has never contributed to or induced infringement (and is not contributorily infringing or inducing infringement) of any valid claim of the '184 patent as properly construed.

**SECOND COUNT**  
**INVALIDITY**

28. Head incorporates by reference as if fully stated herein the allegations contained in paragraphs 1 through 27 of the Complaint.

29. Upon information and belief, the claims of the '184 patent are invalid for failure to meet one or more of the requirements of patentability of United States Code, Title 35, including without limitation those requirements set forth in 35 U.S.C. §§ 101, 102, 103 and/or 112, and the rules, regulations and laws pertaining thereto.

30. Head is entitled to a declaration from the Court that some or all of the claims of the '184 patent are invalid or otherwise unenforceable.

**PRAYER FOR RELIEF**

WHEREFORE, Head requests that this Court grant Head the following relief:

a. Enter a declaratory judgment that Head has never directly infringed (and is not directly infringing) the '184 patent, and has never contributed to or induced infringement (and is not contributorily infringing or inducing infringement) of any valid claim of the '184 patent as properly construed;

b. Enter a declaratory judgment that some or all of the claims of U.S. Patent 4,935,184 are invalid or otherwise unenforceable;

- c. Award Head its reasonable legal costs and expenses; and
  
- d. Award Head such additional and alternative relief as this Court deems just, equitable and appropriate.

**JURY DEMAND**

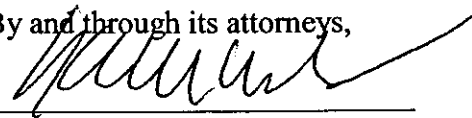
Head hereby demands a jury as to all claims so triable.

June 22, 2006

Respectfully submitted,

Head USA Inc.

By and through its attorneys,



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