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6 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8 RICHARD W. BERGER; BRANT W. BERGER,

Case No. C05-02523 CRB

9 Plaintiff,

SECOND AMENDED COMPLAINT FOR PATENT  
INFRINGEMENT; DEMAND FOR JURY TRIAL

10 vs.

11 ROSSIGNOL SKI COMPANY, INCORPORATED,

12 Defendants.

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14 COMES NOW, plaintiffs' Richard W. Berger and Brant Berger and alleges against

15 defendants as follows:

16 PARTIES

17 1. Richard W. Berger and Brant W. Berger are joint holders of the United States Patent  
18 Number 5,913,530 issued June 22, 1999, and United States Patent Number 6,196,569 issued March  
19 6, 2001 and are residents of San Joaquin County, California.

20 2. Rossignol Ski Company, Inc., is a corporation or other entity unknown to plaintiff with its  
21 principle place of business in Virginia, however, doing business in the northern district of California  
22 and the United States, in sales of snowboard bindings and related products.

23 JURISDICTION AND VENUE

24 3. This is an action for infringement of each of the following United States Patents 5.913,530  
25 issued June 22, 1999 and United States Patent Number 6,196,569 issued March 6, 2001 by the  
26 United States Patent Office in favor of Richard W. Berger and Brant W. Berger, which includes, but  
27 not limited to, the novel invention of the ability to adjust or rotate a step in binding around a  
28 horizontal axis while the boot remains on the board. A copy of the patents-in-suit are attached hereto

1 as Exhibit 1, incorporated herein by reference. The action arises under the patent laws of the United  
2 States 35, U.S.C. Sections 271 and 281.

3 4. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section  
4 1331 and 1338(a). Venue in this District is proper under 28 U.S.C. Sections 1391 and 1400.

5 INFRINGEMENT OF THE PATENTS-IN-SUIT

6 5. Defendants and each of them by making, importing, using, selling and/or offering to sell  
7 various devices, including but not limited to, specifically a step in snowboard binding and/or  
8 snowboard binding system capable of rotating along a horizontal axis by use of actuator while a  
9 snowboard boot is attached to the board, which has infringed on the Patents-In-Suit and is infringing  
10 the Patents-In-Suit, inducing others to infringe upon the Patents-In-Suit, and/or has contributed and\  
11 or cooperated in the infringement upon the Patents-In-Suit under 35 U.S.C. Section 271.

12 6. The products manufactured by defendants are especially made and/or adapted for use in an  
13 infringement of the Patents-In-Suit. The infringing products are not staple articles or commodities of  
14 commerce suitable for substantial non-infringing use.

15 7. Plaintiffs allege based upon information and belief that defendants infringement of the  
16 Patents-In-Suit is willful and will continue.

17 8. Plaintiffs have suffered damages and irreparable injury from defendants acts of  
18 infringement, and will continue to suffer damages and irreparable injury from defendants  
19 infringement of the Patents-In-Suit unless and until such infringement is enjoined by this Court.

20 FIRST CLAIM FOR RELIEF

21 (Patent Infringement, 35 U.S.C. Section 271)

22 9. Plaintiff incorporates Paragraph 1 through 8 by reference as though fully set forth herein.

23 10. Defendant has infringed, induced others to infringe, and contributed to the infringement  
24 of the Patents-In-Suit, and is continuing and will continue to infringe, induce the infringement of,  
25 and contribute to the infringement of, said patent.

26 11. Such past and continuing infringement by Defendant was and is willful.

27 12. Plaintiffs have suffered damages from Defendant's patent infringement as well as  
28 irreparable harm from Defendant's infringement.

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Wherefore plaintiffs pray as follows,

1. For the judgment that Defendant has infringed the Patents-In-Suit, induced others to infringe the Patents-In-Suit, and/or contributed to the infringement of the Patents-In-Suit;
2. For injunction prohibiting Defendant from infringing, inducing others to infringe, or contributing to the infringement of the Patents-In-Suit;
3. For an award of damages according to proof for Defendant’s infringement of the Patents-In-Suit, and on the basis of the supplemental claim such award to include prejudgment interest;
4. For a trebling of the damage award for patent infringement due to the willful nature of Defendant’s infringement, pursuant to 35 U.S.C. Section 284;
5. For costs of suit and such other and further relief as the Court seems just and proper.

DATED: December 2, 2005

BURNETT, BURNETT, & ALLEN

“S/DOUGLAS B. ALLEN”

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DOUGLAS B. ALLEN  
Attorney for Plaintiffs