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AT SEATTLE

CLERK U.S. DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

-18144

Civil Action No.

COMPLAINT FOR PATENT INFRINGEMENT

JURY DEMAND

K-2 CORPORATION,

Plaintiff,

SKIS ROSSIGNOL S A and ROSSIGNOL SKI COMPANY, INC,

Defendants.

Plaintiff K-2 Corporation, ("K2") hereby alleges as follows against Defendants Skis Rossignol S A. and Rossignol Ski Company, Inc (collectively, "Rossignol")

I. PARTIES

- 1 K2 is a corporation organized and existing under the laws of the state of Indiana, having its principal place of business at 19215 Vashon Highway S.W., Vashon, Washington 98070
- 2 Upon information and belief, Skis Rossignol S A. is a French corporation having a principal place of business at 38509 Voiron Cedex, France

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3 Upon information and belief, Rossignol Ski Company, Inc. is a corporation having a principal place of business in Williston, Vermont

II. JURISDICTION AND VENUE

- 4. This action arises under the patent laws of the United States, particularly 35 U S C § 271 and § 281 Jurisdiction is conferred upon this court pursuant to 28 U S C § 1331, § 1332 and § 1338(a)
- 5. Rossignol has offered for sale and sold ski boots in the United States, including the Western District of Washington. In particular, Skis Rossignol S.A. has made and imported its SOFT Alpine ski boots that are distributed, offered for sale, and sold by Rossignol Ski Company, Inc throughout the United States Upon information and belief, Rossignol has distributed such boots that it intended to be sold at other retail outlets within this judicial district. Accordingly, personal jurisdiction over Rossignol is proper in this Court
- For purposes of venue, Rossignol resides in the Western District of Washington pursuant to 28 U S.C. § 1391(c) and venue is proper pursuant to 28 U S.C. § 1400

III. K2's PATENT RIGHTS

- 7 K2 owns several patents related to ski boots, including U S Patent No 6,226,898.
- 8 On May 8, 2001, U.S. Patent No. 6,226,898 was duly and legally issued to Alan M Trimble and James A. Vandergrift for an invention entitled "Downhill Ski Boot With Dual Liner" K2 is the assignee of U.S. Patent No. 6,226,898 and owns the full right, title to, and interest in U.S. Patent No. 6,226,898

IV. PATENT INFRINGEMENT

9. K2 reasserts the allegations in each of the preceding paragraphs

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Rossignol has imported, made, used, offered for sale, or sold ski boots that infringe one or more claims in U.S. Patent No. 6,226,898. Rossignol's infringing offers for sale and sales have been to consumers in Western Washington

- The importation, manufacture, use, sale, and offer for sale of infringing ski boots by Rossignol is without license or authority from K2. Accordingly, these activities constitute direct infringement of U.S. Patent No. 6,226,898 pursuant to 35 U S C § 271
- 12. Rossignol is further actively inducing infringement of U.S. Patent No 6,226,898 by encouraging and soliciting others to purchase and use Rossignol's infringing ski boots without authority from K2. These activities constitute inducement of infringement pursuant to 35 U.S.C. §271(b)
- 13. K2 informed Rossignol in writing that its ski boots would infringe K2's U S. Patent No 6,226,898. Accordingly, Rossignol had actual knowledge of K2's patent rights and Rossignol's infringing activities at the time such infringing activities occurred. Rossignol has continued to import, manufacture, use, sell, or offer for sale infringing ski boots despite actual knowledge of its infringing activities. The infringement by Rossignol is therefore willful and deliberate and will continue unless enjoined by this court.
- As a result of Rossignol's infringement of K2's patent, K2 has suffered, and will continue to suffer, damages in an amount to be established at trial. In addition, Plaintiff K2 has suffered, and continues to suffer, irreparable harm for which there is no adequate remedy at law

V. DECLARATORY JUDGMENT OF PATENT NON-INFRINGEMENT

- 15. K2 reasserts the allegations in each of the preceding paragraphs.
- 16. On or about June 15, 2001, K2 sent a letter to Rossignol alleging infringement of K2's U.S. Patent No. 6,226,898. Outside patent counsel for Rossignol responded on or about August 27, 2001, disputing the allegation of infringement and asserting that Rossignol would not cease making and selling the accused boots.

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	16.	Shortly thereafter, on or about September 21, 2001, the same outside patent counse
for Ro	ssignol	sent to K2 a letter accusing K2 of infringing U S. Patent Nos 6,113,126 and Re 36,586
by ma	king an	d selling certain snowboards, specifically including the K2 Recon, Riser, and Mix
models	ı.	

- 17 On or about October 8, 2001, K2 responded by denying infringement, specifically characterizing Rossignol's claims as an allegation of infringement.
- 18 Rossignol again responded on or about October 22, 2001 without denying that it had accused K2 of infringement and more particularly specifying the manner in which it believed the K2 snowboards infringed the Rossignol patents.
- 19. Because the Rossignol position appears to be unequivocal and was made only in response to K2's prior allegations of infringement, K2 has a real and immediate apprehension of imminent litigation on the question of infringement of the Rossignol patents
- 20 K2 has not made, used, imported, offered for sale, or sold any snowboards that infringe any claim of U S Patent Nos. 6,113,126 and Re 36,586.

V. RELIEF REQUESTED

Plaintiff K2 requests the following alternative and cumulative relief

- 1. Preliminary and permanent injunctions against continued infringement of U S Patent No 6,226,898, including a recall of all goods distributed to retailers,
- 2 An award of damages adequate to compensate for the infringement but in no event less than a reasonable royalty for the use of the invention by Rossignol,
- 3 A judgment declaring that no K2 products infringe US Patent Nos 6,113,126 and Re 36,586,
 - 4 An award of treble damages pursuant to 35 U S C § 284;
 - 5 An award of reasonable attorneys' fees,
 - 6 An assessment of interest and costs, and

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7. Such other and further relief as the court may deem just and proper

VI. JURY DEMAND

K2 demands a jury trial on all issues triable by jury.

Dated this 9th day of November, 2001

BLACK LOWE & GRAHAMPLLC

Lawrence D Graham, WSBA No 25,402

David A Lowe, WSBA No 24,453

Attorneys for Plaintiffs K-2 Corporation

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