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FILED IN THE
U.S. DISTRICT COURT
Eastern District of Washington

JUL 24 2001

JAMES B. LARSEN, CLERK
DEPUTY
RA

8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF WASHINGTON

11 **CT-01-5062-WFN**

12 MARTIN ARCHERY, INC., a Washington
13 corporation,
14 Plaintiff,
15 v.
16 MATHEWS, INC., a Wisconsin
17 corporation,
18 Defendant.

Civil Action No.

COMPLAINT FOR PATENT
INFRINGEMENT

JURY TRIAL DEMANDED

19
20 For its complaint, plaintiff Martin Archery, Inc. alleges against defendant
21 Mathews, Inc. as follows:

22 **THE PARTIES**

23
24 1. Plaintiff Martin Archery, Inc. is a corporation duly organized and existing
25 under the laws of the State of Washington, having its principal place of business at 3134
26 W. Highway 12, Walla Walla, WA 99362 ("Martin Archery"). Plaintiff Martin
27 Archery is the owner, by assignment, of U.S. Patent No. 5,595,168 to a Damping
28

ORIGINAL



1 Apparatus for an Archery Bow, Handle Riser for an Archery Bow, and Method of
2 Fabricating a Handle Riser for an Archery Bow.

3
4 2. Defendant Mathews, Inc. is, upon information and belief, a Wisconsin
5 corporation having an office at 919 River Road, P.O. Box 367, Sparta, Wisconsin
6 54656 ("Mathews").
7

8 **JURISDICTION AND VENUE**

9 3. The claim of plaintiff arises under the laws of the United States relating to
10 patents, Title 35 of the United States Code, so this Court has jurisdiction of this action
11 under 28 U.S.C. §§ 1331 and 1338(a).
12

13 4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) and (c)
14 because a substantial part of the events giving rise to the claim occurred here, and, upon
15 information and belief, a substantial part of property that is the subject of this action is
16 situated here.
17

18 **BACKGROUND**

19
20 5. Martin Archery is in the business of designing archery bow apparatuses.
21 On a date prior to November 10, 1994, Terry G. Martin conceived and reduced to
22 practice an invention entitled Damping Apparatus for an Archery Bow, Handle Riser
23 for an Archery Bow, and Method of Fabricating a Handle Riser for an Archery Bow.
24 A Patent application was filed on this invention in the United States Patent and
25 Trademark Office. The application was fully examined and a patent eventually was duly
26 and legally issued. The patent issued on January 21, 1997 and was assigned U.S. Patent
27
28

1 No. 5,595,168 (hereafter “the Martin patent”). A copy of the Martin patent is appended
2 hereto as Exhibit A.

3
4 6. The Martin patent was assigned to Martin Archery Inc., who is now the
5 rightful owner thereof.

6
7 7. Products covered by the Martin patent have been sold and are now being
8 sold by Martin Archery Inc. Such products have been marked with U.S. Patent No.
9 5,595,168.

10
11 8. Upon information and belief, Mathews undertook to copy many of the
12 products being marketed by Martin Archery. Specifically, Mathews copied the
13 Damping Apparatus for an Archery Bow, Handle Riser for an Archery Bow, and
14 Method of Fabricating a Handle Riser for an Archery Bow.

15
16 9. Upon information and belief, Mathews is now infringing the Martin patent
17 by manufacturing, using, offering to sell and selling apparatus in the United States that
18 fall within one or more claims of the Martin patent in violation of 35 U.S.C. § 271(a).
19 Alternatively, upon information and belief, Mathews is contributing to the infringement
20 of the Martin patent in violation of 35 U.S.C. § 271(c).

21
22 **PRAYER FOR RELIEF**

23
24 **WHEREFORE**, Plaintiff demands judgment:

- 25 1. For a decree that Mathews has infringed the Martin patent;
26
27 2. For a preliminary and permanent injunction restraining and enjoining

28 Mathews, Mathews’ agents, servants, employees, officers, and those persons in active

1 concert or participation with Mathews, from further infringement of the Martin patent
2 pursuant to 35 U.S.C. § 283.

3
4 3. For an accounting and damages against Mathews for all damages suffered
5 by plaintiff by reason of infringement of the Martin patent, including lost profits, but in
6 any event no less than a reasonable royalty together with interest and costs pursuant to
7 35 U.S.C. § 284.

8
9 4. For damages in an amount equal to three times the amount of damages found
10 or assessed, to compensate plaintiff for the willful, deliberate and intentional acts of
11 infringement by Mathews, pursuant to 35 U.S.C. § 284.

12
13 5. For an award of reasonable attorney fees against Mathews pursuant to 35
14 U.S.C. § 285; and

15
16 6. For such other and further relief as may be just and proper.

17 **JURY DEMAND**


18 Plaintiff hereby demands a trial by jury of all issues so triable.

19
20 **DATED** July 24, 2001.

21 Respectfully submitted,

22
23 WITHERSPOON, KELLEY, DAVENPORT
& TOOLE

24
25 By:

26 
27 William D. Symmes, WSBA No. 683
28 Attorneys for Plaintiff
MARTIN ARCHERY, INC.
a Washington corporation