

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

FILED  
2009 JAN 26 AM 8:50  
CLEVELAND

\_\_\_\_\_  
BENDIX COMMERCIAL VEHICLE )  
SYSTEMS LLC, )  
 )  
KNORR-BREMSE SYSTEME FÜR )  
NUTZFAHRZEUGE GMBH, )  
 )  
and )  
 )  
BENDIX SPICER FOUNDATION BRAKE )  
LLC, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
HALDEX BRAKE PRODUCTS )  
CORPORATION, )  
 )  
Defendant. )  
\_\_\_\_\_

CASE NO. 1:09CV0176

JURY TRIAL DEMANDED

JUDGE NUGENT

MAG. JUDGE GALLAS

COMPLAINT

Plaintiffs Bendix Commercial Vehicle Systems LLC ("BCVS"), Knorr-Bremse Systeme Für Nutzfahrzeuge GmbH ("Knorr-Bremse SfN"), and Bendix Spicer Foundation Brake LLC ("Bendix Spicer"), (collectively "Plaintiffs"), by their undersigned attorneys, for their complaint against Defendant Haldex Brake Products Corporation ("Haldex"), allege and state as follows:

PARTIES

1. BCVS is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business at 901 Cleveland Street, Elyria, OH 44305.
2. Knorr-Bremse SfN is a corporation organized and existing under the laws of Germany, with a principal place of business at Moosacher Straße 80, 80809 München, Germany.

3. Bendix Spicer is a limited liability company organized and existing under the laws of the State of Delaware, with a principal place of business at 901 Cleveland Street, Elyria, OH 44305.

4. On information and belief, Haldex is a corporation organized and existing under the laws of the State of Delaware. On information and belief, Haldex is registered to do business in the State of Ohio, and has assigned CT Corporation System, 1300 E. Ninth St., Cleveland, Ohio 44114, to serve as its registered agent.

### **JURISDICTION AND VENUE**

5. This is a civil action arising under the patent laws of the United States, as set forth in Title 35 of the United States Code.

6. This Court has original and exclusive subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1332, and 1338(a).

7. This Court has personal jurisdiction over Haldex by virtue of the fact that, on information and belief, Haldex has registered to do business in the State of Ohio and does business in the State of Ohio, including in this judicial district.

8. Venue is proper in this judicial district under 28 U.S.C. § 1391 and 1400(b).

### **THE PATENT-IN-SUIT**

9. On November 15, 2005, the United States Patent and Trademark Office duly and legally reissued U.S. Patent No. 5,927,445 as U.S. Patent No. RE38,874 (“the ‘874 Reissue Patent”), entitled “Disc Brake for Vehicles Having Insertable Actuator,” naming Dieter Bieker and Hans Baumgartner as the inventors. A true and correct copy of the ‘874 Reissue Patent is attached as Exhibit A.

10. Knorr-Bremse SfN is the owner by assignment of all legal rights, title, and interest in and to the '874 Reissue Patent.

11. Knorr-Bremse SfN has granted BCVS an exclusive license under the '874 Reissue Patent. BCVS subsequently granted Bendix Spicer a limited sublicense under the '874 Reissue Patent.

12. The '874 Reissue Patent is directed to, *inter alia*, a disc brake for vehicles and a method of making the disc brake.

**COUNT 1**  
**Infringement of U.S. Patent No. RE38,874**

13. Plaintiffs incorporate the allegations contained in Paragraphs 1 through 12 above as though fully set forth herein.

14. On information and belief, Haldex, without Plaintiffs' authority, makes, uses, offers to sell, sells within the United States, and/or imports into the United States, products, including without limitation Haldex's ModulX model air disc brakes, that incorporate, make use of, and/or practice the inventions covered by the '874 Reissue Patent, thereby infringing, contributing to the infringement of, and/or actively inducing infringement of one or more claims of the '874 Reissue Patent pursuant to 35 U.S.C. § 271.

15. On information and belief, Haldex has been aware of the '874 Reissue Patent, and its infringement thereof, since the time of its issuance, and was aware of the status of the application leading to the '874 Reissue Patent while it was pending before the U.S. Patent & Trademark Office prior to its issuance.

16. Despite its knowledge of the '874 Reissue Patent and its infringement thereof, Haldex recklessly proceeded to directly and/or indirectly infringe one or more claims of the '874 Reissue Patent. Haldex's infringement therefore has been willful.

17. Plaintiffs have suffered monetary damages by reason of Haldex's infringement of the '874 Reissue Patent.

18. On information and belief, Haldex will continue to infringe the '874 Reissue Patent unless enjoined from doing so by this Court.

**REQUESTED RELIEF**

WHEREFORE, Plaintiffs Bendix Commercial Vehicle Systems LLC, Knorr-Bremse Systeme Für Nutzfahrzeuge GmbH, and Bendix Spicer Foundation Brake LLC request relief against Defendant Haldex Brake Products Corporation as follows:

- A. A judgment that Defendant has directly and/or indirectly infringed the '874 Reissue Patent;
- B. A judgment that Defendant's infringement has been willful;
- C. A permanent injunction enjoining and restraining Defendant or anyone acting on its behalf from further infringement of the '874 Reissue Patent;
- D. A judgment and order requiring Defendant to pay damages under 35 U.S.C. § 284, including treble damages for willful infringement, with prejudgment and post-judgment interest;
- E. A finding that this is an exceptional case, and an order awarding Plaintiffs their costs and reasonable attorneys fees under 35 U.S.C. § 285; and
- F. Any and all such other and further relief as this Court may deem appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury on all issues triable to a jury.

Respectfully submitted,

By:



Deborah A. Coleman (#0017908)  
Hahn Loeser & Parks LLP  
200 Public Square, Suite 2800  
Cleveland, OH 44114  
Telephone: 216-621-0150  
Facsimile: 216-241-2824  
dacoleman@hahnlaw.com

Of Counsel:  
Jeffrey D. Sanok  
Mark Supko  
Michael I. Coe  
Nathaniel Grow  
**CROWELL & MORING LLP**  
1001 Pennsylvania Ave. NW  
Washington, DC 20004  
Telephone: 202-624-2500  
Facsimile: 202-628-5116

*Attorneys for Plaintiffs Bendix Commercial  
Vehicle Systems LLC, Knorr-Bremse  
Systeme Für Nutzfahrzeuge GmbH, and  
Bendix Spicer Foundation Brake LLC*

DATED: January 26, 2009.