

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

_____)	
)	
MATTHEW T. MARSH)	Civil Action No.
PO Box 1029)	
Langley, WA 98260)	
)	
	Plaintiff)	
)	
v.)	
)	
MOBILARM)	
PO Box 1533 APPLECROSS)	
Western Australia 6953)	
)	
WEST MARINE)	
PO Box 50070)	
Watsonville, CA 95077-0070)	
)	
<u>RAYMARINE INCORPORATED</u>)	
<u>21 Manchester Street</u>)	
<u>Merrimack, New Hampshire 03054</u>)	
)	
	Defendants)	
_____)	

AMENDED COMPLAINT FOR PATENT INFRINGEMENT
AND INJUNCTIVE RELIEF

Plaintiff, Matthew T. Marsh complaint of Defendants, Mobilarm and West Marine and Raymarine, as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement under Title 35 United States Code.
2. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331, 1332 (a) 1338(a).

3. Plaintiff, Matthew T. Marsh, PO Box 1029, Langley, WA 98260 is an individual citizen of the United States of America and is the inventor and owner of United States Letters Patent Number 6,057,759.

4. Defendant Mobilarm is upon information and belief, a corporation existing under the laws of Australia, having a place of business at PO Box 1533 AppleCross, Western Australia 6953. Mobilarm is engaged in making, using, offering for sale and selling products covered under the claims of the '759 patent in suit. Mobilarm has manufactured and offers for sale the infringing products knowing that such products would be sold in the State of Maryland, in this Judicial District. Venue is proper in this District as to Defendant Mobilarm under 28 U.S.C. §1391(d) and §1400(b).

5. Defendant West Marine is upon information and belief, a corporation organized under the laws of the state of California, and having a place of business at PO Box 50070, Watsonville, California 95077-0070. West Marine is engaged in purchasing, offering for sale and selling products covered under the claims of '759 patent in suit and conducts substantial business in Maryland and has sold the infringing product into interstate commerce knowing that such product would be sold in the State of Maryland, in this Judicial District. Venue is proper in this District as to Defendant under 28 U.S.C. §1391(b) and §1400(b).

6. Defendant Ray Marine is upon information and belief, a corporation organized under the laws of the state of New Hampshire, and having a place of business at 21 Manchester Street, Merrimack, New Hampshire 03054. Raymarine is engaged in manufacturing, offering for sale and selling products covered under the claims of the '759 patent in suit and conducts substantial business in Maryland and has sold the infringing product into interstate commerce

knowing that such product would be sold in the State of Maryland, in this Judicial District.
Venue is proper in this District as to Defendant under 28 U.S.C. §1391(b) and §1400(b).

GENERAL ALLEGATIONS

67. Plaintiff was granted United States Letters Patent Number 6,057,759 on May 2, 2000 from his application originally filed October 1996.

7 8. The 6,057,759 patent is entitled “Marine Personnel Monitoring, OVERBOARD DETECTION, ALERT AND RESCUE SYSTEM” and describes a system for detecting and locating overboard personnel who have entered the water from a vessel. The system comprises a plurality of transmitter units to be worn by each person to be monitored by the system and an onboard receiver. The onboard receiver continuously monitors the transmitter to detect entry a transmitter into water.

8 9. Defendants, make, use, offer for sale and sell a man overboard alert systems as taught and protected by the Marsh patent.

9 10. Defendant, Mobilarm makes and sells two products under the product names Mobi-lert Crewsafe 7200T and Mobi-lert Crewsafe 7600T, a system for crew-monitoring comprising a personal transmitter worn by the members of the crew, each transmitter maintaining a constant link with a central unit located onboard until the wearer of the transmitter enters the water, then the console on board loses contact with the personal transmitter.

~~10~~ 11. Defendant, West Marine purchases both Mobi-lert Crewsafe 7200T and Mobi-lert Crewsafe 7600T from Defendant Mobilarm and re-sells the infringing products in interstate commerce.

12. Defendant, Raymarine makes and sells in interstate commerce, the product named LifeTag, a wireless crew monitoring and man-overboard alert system, wherein in the event a tagged person falls overboard, the link between the base and the tag is broken and an onboard audible alarm is sounded.

PATENT INFRINGEMENT GENERAL ALLEGATIONS

¶ 13. Plaintiff realleges each and every allegation set forth above and incorporates them herein by reference.

¶ 14. Plaintiff owns and has at all times owned and has had standing to sue for infringement of United States Letters Patent Number 6,057,759 which was duly and legally issued on May 2, 2000.

¶ 15. The '759 patent properly names Matthew T. Marsh as inventor, and includes independent Claim 1, which reads as follows:

1. A system for detecting and locating overboard personnel of a vessel, comprising:

a plurality of transmitter units to be worn by monitored personnel, each unit including a signal circuit for transmitting a unique identifier signal to said transmitter unit, each transmitter unit further including a deactivator switch for terminating transmission of said unique identifier signal upon entry of said transmitter into water;

an onboard receiver for receiving and monitoring said unique identifier signal, and for establishing an initial identifier configuration indicative of said transmitter unit identifier signals received by said onboard receiver based upon said monitoring, said receiver configured for detection of any change in said initial identifier configuration, resulting from deactivation of one of said plurality of transmitter units;

an alert device operatively connected to said receiver to alert the crew of said vessel to any detected change; and said transmitter unit further comprising a selector switch for choosing an alarm status of said transmitter selected from the group consisting of onboard, overboard and combined verification and detection, wherein said selection generating separate automated signals to said receiver for alarm generation.

COUNT I
PATENT INFRINGEMENT MOBILARM

16. Plaintiff realleges each and every allegation set forth above and incorporates them herein by reference.

17. Upon information and belief, Defendant Mobilarm manufactures, uses, sells and offers for sale a product known as Mobi-lert Crewsafe System made according to the invention claimed in the '759 patent, which infringes each of the claims of the '759 patent.

18. Upon information and belief, Defendant Mobilarm infringes all of the claims of the '759 either literally or by equivalents.

19. Upon information and belief, Defendant Mobilarm has infringed and continues to infringe the claims of the '759 patent by manufacturing or causing to be manufactured products which infringe the claims of the '759 patent, by using the invention claimed in the '759 patent, by selling and offering for sale products which infringe the claims of the '759 patent and by inducing others to infringe by using the products.

20. Plaintiff is entitled to recover from Defendant Mobilarm the damages sustained as a result of Defendant's infringing acts.

COUNT II
PATENT INFRINGEMENT WEST MARINE

21. Plaintiff realleges each and every allegation set forth above and incorporates them herein by reference.

22. Upon information and belief, Defendant West Marine purchases and re-sells and offers for sale the products manufactured by Mobilarm known as Mobi-lert Crewsafe 7200T

System and Mobi-lert Crewsafe 7600T System made according to the invention claimed in the '759 patent, which infringes the claims of the '759 patent.

23. Upon information and belief, Defendant West Marine infringes all of the claims of the '759 either literally or by equivalents.

24. Upon information and belief, Defendant West Marine has infringed and continues to infringe the claims of the '759 patent by selling and offering for sale products which infringe the claims of the '759 patent and by inducing others to infringe by using the products.

25. Plaintiff is entitled to recover from Defendant West Marine the damages sustained as a result of Defendant's infringing acts.

COUNT III
PATENT INFRINGEMENT RAYMARINE

26. Plaintiff realleges each and every allegation set forth above and incorporates them herein by reference.

27. Upon information and belief, Defendant Raymarine manufactures, uses, sells and offers for sale a product known as Lifetag Wireless man overboard system made according to the invention claimed in the '759 patent, which infringes each of the claims of the '759 patent.

28. Upon information and belief, Defendant Raymarine infringes all of the claims of the '759 either literally or by equivalents.

29. Upon information and belief, Defendant Raymarine has infringed and continues to infringe the claims of the '759 patent by manufacturing or causing to be manufactured products which infringe the claims of the '759 patent, by using the invention claimed in the '759 patent, by selling and offering for sale products which infringe the claims of the '759 patent and by inducing others to infringe by using the products.

30. Plaintiff is entitled to recover from Defendant Raymarine the damages sustained as a result of Defendant's infringing acts.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgement against Defendants as follows:

~~26~~ 31. That Defendants be held to have infringed the '759 patent.

~~27~~ 32. That Defendants, their directors, officers, agents, servants, employees and all other persons in active concert or privity or in participation with them, be enjoined from directly or indirectly infringing Plaintiff's patent.

~~28~~ 33. That Defendants, their directors, officers, agents, servants, employees and all other persons in active concert or privity or in participation with them, be enjoined, to return all infringing products.

~~29~~ 34. That Defendants be enjoined to recall from all distributors, wholesalers, dealers, retailers, all customers and distributors and all others known to Defendants, all infringing products.

~~30~~ 35. That Defendants be enjoined to deliver upon oath, to be impounded during the pendency of this action, and delivered to Plaintiff pursuant to judgement herein, all originals, copies, facsimiles, or duplicates of any device shown by the evidence to infringe any Plaintiff patent.

~~31~~ 36. That Defendants be required to file with the Court and to serve on Plaintiff, within 30 days after service of the Court's order as herein prayed, a report in writing under oath setting forth in detail the manner and form in which Defendants have complied with the Court's order.

~~32~~ 37. That judgement be entered for Plaintiff against Defendants, for Plaintiff actual damages according to proof, and for any additional profits attributable to infringements of Plaintiff patent.

~~33~~ 38. That judgement be entered for Plaintiff against Defendants, for statutory damages, including but not limited to reasonable royalties, for Plaintiff actual damages according to proof, and for any additional profits based upon Defendants acts of patent infringement and for their other violations of law.

~~34~~ 39. That Defendants be required to account for all gains, profits, and advantages derived from their acts of infringement and for their other violations of law.

~~35~~ 40. That judgement be entered for Plaintiff and against Defendants, for trebling of the damages awarded for patent infringement.

~~36~~ 41. That Plaintiff has judgement against the Defendants for Plaintiff costs and attorney's fees.

~~37~~ 42. That the Court grant such other, further, and different relief as the Court deems proper under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff hereby request and demand a trial by jury on all issues so triable.

Respectfully submitted,
/s/ Joseph J. Zito
Joseph J. Zito 5,640
ZITO tlp
26005 Ridge Road, Suite 500
Damascus, Maryland 20872
Tel: (301) 601-5010
Fax: (301) 576-3531
joe@zitotlp.com