

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

DEERE & COMPANY,)	
)	
Plaintiff,)	No. _____
)	
v.)	
)	COMPLAINT
VERMEER MANUFACTURING)	
COMPANY,)	JURY TRIAL DEMANDED
)	
Defendant.)	

Plaintiff, Deere & Company (“Deere”), complains against Defendant, Vermeer Manufacturing Company (“Vermeer”), as follows:

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. The Court has exclusive subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§1331 and 1338(a).

2. Venue is proper in this District and Division pursuant to 28 U.S.C. §§1391 and 1400(b) because Defendant’s principal place of business is located in this District and, upon information and belief, one or more of Defendant’s acts of infringement occurred in Scott County, Iowa.

3. Deere is a Delaware corporation having a principal place of business at One John Deere Place, Moline, Illinois 61265. Deere manufactures and sells, among other things, agricultural equipment, including round balers covered by U.S. Patent No. 6,623,167 (“the ‘167 patent”) and U.S. Patent No. 5,394,682 (“the ‘682 patent”).

4. Vermeer is an Iowa corporation having a principal place of business at 2411 Highway 102, Pella, Marion County, Iowa 50219. Vermeer manufactures and sells agricultural equipment, including round balers.

5. This Court has personal jurisdiction over Vermeer because Vermeer is an Iowa corporation.

COUNT I

INFRINGEMENT OF PATENT NO. 6,623,167

6. On September 23, 2003, U.S. Patent 6,623,167 (“the ‘167 patent”), entitled “Arrangement For Clamping Inner Bearing Race to Non-Circular Section Shaft And For Preventing Axial Load In The Bearing, Axial Creep And Rotational Knock” was duly and legally issued to Deere as assignee on an application filed on May 3, 2001. A true and correct copy of the ‘167 patent is attached hereto as Exhibit A.

7. Deere owns all right, title and interest in the ‘167 patent, and has standing to sue for infringement of the ‘167 patent.

8. Vermeer, by itself and through its subsidiaries, affiliates, and agents, has been and is infringing the ‘167 patent by, among other activities, making, using, offering to sell and selling agricultural machines, including, but not limited to, its “M-Series” balers, which incorporate the inventions patented in the ‘167 patent within the United States; by inducing others to infringe the ‘167 patent; and/or by contributing to the infringement by others of the ‘167 patent. Unless enjoined by the Court, Vermeer will continue to infringe, induce the infringement of, and/or contributorily infringe the ‘167 patent.

9. On information and belief, Vermeer's infringement, contributory infringement, and/or inducement to infringe the '167 patent has been willful and deliberate and has injured Deere and will continue to injure Deere unless enjoined by this Court.

10. Deere is entitled to recover damages adequate to compensate it for such infringement pursuant to 35 U.S.C. §284.

COUNT II

INFRINGEMENT OF PATENT NO. 5,394,682

11. On March 7, 1995, the '682 patent, entitled "Round Baler Pickup Having Stiff Teeth," was duly and legally issued to Deere as assignee on an application filed on November 9, 1993. A true and correct copy of the '682 patent is attached hereto as Exhibit B.

12. Deere owns all right, title and interest in the '682 patent, and has standing to sue for infringement of the '682 patent.

13. Vermeer, by itself and through its subsidiaries, affiliates, and agents, has been and is infringing the '682 patent by, among other activities, making, using, offering to sell and selling round balers, including, but not limited to, its "M-Series" balers and its 554XL Wide Pickup round balers, which incorporate the inventions patented in the '682 patent within the United States; by inducing others to infringe the '682 patent; and/or by contributing to the infringement by others of the '682 patent. Unless enjoined by the Court, Vermeer will continue to infringe, induce the infringement of, and/or contributorily infringe the '682 patent.

14. On information and belief, Vermeer's infringement, contributory infringement, and/or inducement to infringe the '682 patent has been willful and deliberate and has injured Deere and will continue to injure Deere unless enjoined by this Court.

15. Deere is entitled to recover damages adequate to compensate it for such infringement pursuant to 35 U.S.C. §284.

PRAYER FOR RELIEF

WHEREFORE, Deere prays for:

1. Judgment that Vermeer infringes each of the '167 and '682 patents;
2. Judgment that Vermeer's infringement of the '167 and '682 patents has been and is willful;
3. A preliminary and permanent injunction enjoining Vermeer, its officers, subsidiaries, affiliates, agents, servants, employees and those persons acting in active concert or participation with Vermeer, from infringing, inducing infringement of, or contributorily infringing each of the '167 and '682 patents;
4. Judgment awarding damages, not less than a reasonable royalty, arising out of Vermeer's infringement of the '167 and '682 patents, together with pre- and post-judgment interest;
5. Judgment awarding enhanced damages pursuant to 35 U.S.C. §284 arising out of Vermeer's willful infringement of the '167 and '682 patents, together with pre-judgment and post-judgment interest;
6. Judgment that the damages so adjudged be trebled;
7. Judgment that this is an exceptional case and that Deere be awarded its attorneys' fees, costs and expenses incurred in this action; and
8. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Deere demands trial by jury of all issues triable of right by a jury.

Dated: August 17, 2007

/s/ Richard J. Sapp
/s/Debra L. Hulett
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