

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BORGWARNER INC.,)	
)	
Plaintiff,)	
)	Civil Action No.:
v.)	
)	Honorable
DORMAN PRODUCTS, INC.,)	
)	
Defendant.)	
_____)	

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, BORGWARNER INC., hereby complains, through its counsel, of Defendant, DORMAN PRODUCTS, INC., as follows:

THE PARTIES

A. THE PLAINTIFF

1. BorgWarner Inc. ("BorgWarner") is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 3850 Hamlin Road, Auburn Hills, Michigan 48326 and is doing business in this District.

2. BorgWarner is the owner by assignment of United States Patent No. 5,527,149 (the "149 Patent") which issued on June 18, 1996, for an invention entitled "Extended Range Regenerative Pump With Modified Impeller And/Or Housing." (Copy attached as Exhibit A.)

3. BorgWarner is the owner by assignment of United States Patent No. 6,422,808 (the "808 patent"), which issued on July 23, 2002, for an invention entitled "Regenerative Pump Housing Vanes And Side Channels Particularly Shaped To Direct Fluid Flow." (Copy attached as Exhibit B.)

4. BorgWarner manufactures and sells a variety of automotive products including, but not limited to, parts and components for automobile and other vehicle exhaust systems, including regenerative air pumps ("BorgWarner Products").

B. THE DEFENDANT

5. Dorman Products, Inc. ("Dorman") is a corporation organized and existing under the laws of Pennsylvania. Dorman has a registered office at 3400 East Walnut Street, Colmar, Pennsylvania 18915 and is doing business in this District.

6. Dorman imports, manufactures, has manufactured, advertises, offers for sale and sells automotive replacement parts and components, including components for air pumps which are

used in regenerative air pumps which infringe the '149 and '808 patents ("Infringing Products").

7. Dorman produces online and print advertising, catalogs and construction sheets which market and describe their automotive replacement parts and components, including components for regenerative air pumps.

**DORMAN'S PRIOR INFRINGEMENT
OF BORGWARNER'S PATENT RIGHTS**

8. This is not the first time that Dorman has infringed BorgWarner patents. In 2006, BorgWarner had filed an action against Dorman (formerly known as R & B, Inc.) for copying and infringement of patents relating to other automotive products sold in the aftermarket. *BorgWarner Inc. v. R & B, Inc.*, CA 06-12535 (E.D. Mich). That action was settled when Dorman agreed to stop selling the copycat products and compensated BorgWarner for the infringement.

JURISDICTION

9. This is a civil action arising under 35 U.S.C. § 101 et. seq. for patent infringement.

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 1338 because this is a civil action for patent infringement and arises under the patent laws of the United States.

11. Venue is proper in this District because a substantial part of the events giving rise to the underlying claims is situated within this District as provided in 28 U.S.C. §§ 1391(c) and 1400(b).

**COUNT I – PATENT INFRINGEMENT
U.S. PATENT NO. 5,527,149**

12. BorgWarner hereby realleges the allegations contained in Paragraphs 1-11 of the Complaint as though fully set forth herein.

13. This action arises under the United States Patent Laws, Title 35, United States Code.

14. In violation of 35 U.S.C. § 271(c), Dorman contributorily infringes the '149 Patent through the importation, manufacture, offers to sell and sale of components for the infringing products.

15. In violation of 35 U.S.C. §271(b), Dorman actively induces infringement of the '149 patent by others through the importation, manufacture, offer for sale and sale of the infringing products.

16. Dorman's literature and product instruction sheets show use of its air pump products in combination with a BorgWarner cover member which forms complete products which directly infringe the '149 patent.

17. Purchasers of Dorman's infringing products directly infringe the '149 patent.

18. Dorman's infringement of the '149 patent is willful.

19. The claims of the '149 patent were validly issued by the Patent Office and are valid and enforceable.

20. Unless preliminarily and then permanently enjoined, Dorman will continue its unlawful and willful infringement of the claims of the '149 patent.

COUNT II – PATENT INFRINGEMENT
U.S. PATENT NO. 6,422,808

21. BorgWarner hereby realleges the allegations contained in Paragraphs 1-20 of the Complaint as though fully set forth herein.

22. This action arises under the United States Patent Laws, Title 35, United States Code.

23. In violation of 35 U.S.C. § 271(c), Dorman contributorily infringes the '808 Patent through the importation, manufacture, offers to sell and sale of components for the infringing products.

24. In violation of 35 U.S.C. §271(b), Dorman actively induces infringement of the '808 patent by others through the importation, manufacture, offer for sale and sale of the infringing products.

25. Dorman's literature and product instruction sheets show use of its air pump products in combination with a BorgWarner cover member which forms complete products which directly infringe the '808 patent.

26. Purchaser's of Dorman's products directly infringe the '808 patent.

27. Dorman's infringement of the '808 patent is willful.

28. The claims of the '808 patent were validly issued by the Patent Office and are valid and enforceable.

29. Unless preliminarily and then permanently enjoined, Dorman will continue its unlawful and willful infringement of the claims of the '808 patent.

RELIEF REQUESTED

WHEREFORE, Plaintiff, BorgWarner, Inc., demands judgment as follows:

A. That this Court preliminarily and permanently enjoin Dorman from further infringement of U.S. Patent Nos. 5,527,149 and 6,422,808;

B. That this Court find that Dorman and those in privity therewith have contributorily infringed U.S. Patent Nos. 5,527,149 and 6,422,808;

C. That this Court found that Dorman and those in privity therewith have actively induced infringement of U.S. Patent Nos. 5,527,149 and 6,422,808;

D. That this Court award BorgWarner compensatory damages and prejudgment interest thereof for Dorman's infringing acts;

E. That this Court find that Dorman's infringement has been willful and award BorgWarner treble damages pursuant to 35 U.S.C. § 284;

F. That this Court declare this case exceptional pursuant to 35 U.S.C. § 285 and award BorgWarner its reasonable attorneys fees; and

G. That this Court award BorgWarner its costs, expenses and such other relief as is deemed just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted,

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