

RECEIPT NUMBER

534 948

ORIGINAL

8 pgs.

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

EDSCHA JACKSON INC.
Plaintiff,

v.

MULTIMATIC, INC.
a Canadian Corporation

Defendant.

JUDGE : Friedman, Bernard A.
DECK : S. Division Civil Deck
DATE : 11/30/2005 @ 15:45:41
CASE NUMBER : 2:05CV74544
CIV EDSCHA JACKSON INC V
MULTIMATIC INC (EW)

JURY TRIAL DEMANDED

MAGISTRATE JUDGE MORGAN

DAVIDSON, DAVIDSON & Kappel
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Attorneys for Plaintiff Edscha Jackson Inc.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Edscha Jackson Inc., for its complaint of patent infringement against defendant
Multimatic, Inc., alleges as follows:

PARTIES

1. The plaintiff, Edscha Jackson Inc., ("Edscha") is a corporation organized under the laws of Delaware and having its principal place of business at 2800 Centerpoint Parkway, Pontiac, Michigan 48341.
2. Edscha produces automobile hinges, door checks and roof systems at various

plants in North America, and is the market leader for such door hinges and door checks.

3. On information and belief, the defendant, Multimatic, Inc. ("Multimatic") is a corporation organized under the laws of Canada having a principle place of business at 85 Valleywood Drive, Markham, Ontario L3R 5E5, Canada.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). Defendant Multimatic resides in this District, has transacted business and committed acts of infringement in this District, and this action arises from the transaction of that business and that infringement.

FACTS

6. U.S. Patent No. 6,629,337 ("the '337 patent"), entitled "Double-Pivot Resistance Hinge for Motor Vehicle Door" is valid and in full compliance with Title 35, United States Code, and all other pertinent laws. The '337 patent relates to double pivot door hinges of a motor vehicle for permitting a greater than ninety degree opening of a vehicle door. A true and correct copy of the '337 patent is attached hereto as Exhibit A.

7. U.S. Patent No. 6,817,063 ("the '063 patent"), entitled "Double-Pivot Hinge for Motor Vehicle Door" is valid and in full compliance with Title 35, United States Code, and all other pertinent laws. The '063 patent also relates to double pivot door hinges of a motor vehicle for permitting a greater than ninety degree opening of a vehicle door, but claims different subject matter as that claimed in the '337 patent. A true and correct copy of the '063 patent is attached

hereto as Exhibit B.

8. Upon information and belief, defendant Multimatic manufactures certain double pivot vehicle door hinges ("the accused hinges"), which include two pivots, and which are incorporated into certain Nissan Titan vehicles.

9. The accused hinges are incorporated at the rear doors of certain Nissan Titan vehicles, which are extended cab pick-up trucks. The accused hinges permit the rear doors of the extended cab pick-up trucks to open greater than ninety degrees wide.

10. The accused hinges infringe one or more claims of the '337 patent and one or more claims of the '063 patent.

11. Upon information and belief, defendant Multimatic also manufactures further double pivot hinges ("further accused hinges") embodying the patented invention of the '337 and '063 patent, including, without limitation, double pivot hinges sold/offered for sale to General Motors for incorporation into vehicles of the GMT-900 program.

12. Upon information and belief, the further accused hinges infringe one or more claims of the '337 patent and one or more claims of the '063 patent.

CAUSE OF ACTION FOR PATENT INFRINGEMENT

13. On October 7, 2003, the United States Patent and Trademark Office duly and legally issued the '337 patent.

14. On November 16, 2004, the United States Patent and Trademark Office duly and legally issued the '063 patent.

15. Plaintiff Edscha is the owner of the '337 patent and the '063 patent.

16. Multimatic has infringed, directly and/or through acts of contributory infringement or inducement, and continues to infringe, one or more claims of the '337 patent and

one or more claims of the '063 patent, in violation of 35 U.S.C. § 271, by making, using, selling, offering for sale, and/or importing into the United States the accused hinges and the further accused hinges.

17. Upon information and belief, defendant Multimatic's infringement has been and continues to be willful and deliberate.

18. As a direct and proximate consequence of the acts and practices of the defendant, plaintiff Edscha has been, is being and, unless such acts and practices are enjoined by this Court, will continue to be injured in its business and property rights, and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. §284.

19. As a direct and proximate consequence of the acts and practices of the defendant, defendant Multimatic has also caused, is causing, and unless such acts and practices are enjoined by this Court, will continue to cause irreparable harm to plaintiff Edscha for which there is no adequate remedy at law, and for which plaintiff is entitled to injunctive relief under 35 U.S.C. § 283.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Edscha requests that the Court:

- a. Adjudge that plaintiff Edscha is the owner of the '337 patent and with right to recover thereunder, and that the '337 patent is good and valid in law and enforceable;
- b. Adjudge that plaintiff Edscha is the owner of the '063 patent and with right to recover thereunder, and that the '063 patent is good and valid in law and enforceable;
- c. Adjudge that defendant Multimatic has directly infringed, contributorily infringed, and/or induced infringement of one or more claims of the '337 patent, and that defendant Multimatic has directly infringed, contributorily infringed, and/or induced

infringement of one or more claims of the '063 patent;

d. Adjudge that defendant Multimatic has willfully infringed one or more claims of the '337 patent and that defendant Multimatic has willfully infringed one or more claims of the '063 patent.

e. Adjudge this to be an "exceptional" case within the meaning of 35 U.S.C. § 285, entitling plaintiff to an award of its reasonable attorney fees, expenses and costs in this action; and

f. Preliminarily and permanently enjoin defendant Multimatic, its officers, directors, employees, licensees, successors, and assigns, and all persons in concert with them, from committing further acts of infringement under 35 U.S.C. §271 of any claims of the '337 and '063 patents pursuant to 35 U.S.C. § 283;

g. Award plaintiff Edscha damages in accordance with 35 U.S.C. § 284;

h. Treble the damages assessed;

i. Award plaintiff Edscha its costs in connection with this action; and

j. Award plaintiff Edscha such other relief as this Court may deem just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE

BODMAN LLP

By:



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Attorneys for Edscha Jackson, Inc.

Dated November 30, 2005

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Attorneys for Edscha Jackson, Inc.

05-74544

This civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as modified by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

Edscha Jackson, Inc.

DEFENDANTS

Multimatic, Inc.

BERNARD A. FRIEDMAN

(b) County of Residence of First Listed Plaintiff OAKLAND
 (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE

Attorneys (If Known)

MAGISTRATE JUDGE MORGAN

(c) Attorney's (Firm Name, Address, and Telephone Number)

Thomas J. Tallarico
 Rodman LLP
 201 W. Big Beaver, Troy, MI 48064 248-743-6073

II. BASIS OF JURISDICTION (Select One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Select One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

V. NATURE OF SUIT (Select One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 IIIA (1395II) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(e)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Select One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Title 35 of the United States Code

Brief description of cause:
 Patent infringement action

II. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No

III. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE / 30 November 2005

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
