

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

GRAY MANUFACTURING)
COMPANY, INC.,)
a Missouri corporation)

Address: 3501 S. Leonard Rd.)
St. Joseph, Missouri 64503)

Plaintiff,)

vs.)

Case No. 5:12-CV-06021

ARS GLOBAL GUIDING, INC.)
a California corporation)

Serve: Xinxian Gao)
Registered Agent)
2674 East Walnut Street)
Pasadena, California 91107)

and)

MAXIMA USA)
a California company)

Serve: Xinxian Gao)
225 South Lake Ave. Suite 300)
Pasadena, California 91101)

and)

YANTAI MAXIMA AUTOMOBILE)
REPAIR EQUIPMENT)
MANUFACTURE CO., LTD.)
a Chinese corporation)

Address: No. 1 Wuzhishan Road,)
YTETDZ)
Yantai, China 264006)

and)

**YANTAI BANTAM AUTOMOBILE
TEST & REPAIR EQUIPMENT
MANUFACTURE CO., LTD.**

a Chinese corporation

Address: No. 1 Wuzhishan Road,
YTETDZ
Yantai, China 264006

and

MIT GROUP / MAXIMA

a Chinese corporation

Address: No. 1 Wuzhishan Road,
YTETDZ
Yantai, China 264006

Defendants.

COMPLAINT

Plaintiff, Gray Manufacturing Company, Inc., by and through its counsel, for its Complaint against Defendants ARS Global Guiding, Inc., Maxima USA, Yantai Maxima Automobile Repair Equipment Manufacture Co., Ltd., and Yantai Bantam Automobile Test & Repair Equipment Manufacture Co., Ltd., states and alleges as follows:

Type of Action:

1. This action is brought under the patent laws of the United States, Title 35, United States Code, 35 U.S.C. §§ 100, *et seq.*

2. Gray Manufacturing Company, Inc. (“Gray Manufacturing”) is the owner of certain patents covering wireless portable lift systems used in the automotive, truck, heavy-duty truck, and service vehicle industries, upon which Defendants are infringing.

Parties:

3. Gray Manufacturing is a family-owned, Missouri corporation with its principal place of business located at 3501 S. Leonard Road, St. Joseph, Missouri. Gray Manufacturing is in the business of designing, manufacturing, marketing, selling, and servicing professional shop service equipment, including jacks and lifting equipment for the automotive, truck, heavy-duty truck, and service vehicle industries. Prior to October 1, 2006, Gray Manufacturing was named Gray Automotive Products Co.

4. Defendant ARS Global Guiding, Inc. (“ARS”) is a California corporation located at 2674 East Walnut Street, Pasadena California 91107 and is in the business of manufacturing, distributing, importing, exporting, marketing, offering for sale, and selling commercial vehicle lifts for the automotive industry, including but not limited to, the Wireless Heavy Duty Column Lift Model ML4030W mobile lift system with which infringes on the Gray Patents (defined in Paragraph 24 of the Complaint below). Upon information and belief, ARS holds itself out to the public as Maxima USA and does business as Maxima.

5. Defendant Maxima USA (“Maxima”) is an entity that can be found at 2674 East Walnut Street, Pasadena California 91107. Maxima is in the business of manufacturing, distributing, importing, exporting, marketing, offering for sale, and selling commercial vehicle lifts for the automotive industry, including but not limited to, the Wireless Heavy Duty Column Lift Model ML4030W mobile lift system which infringes on the Gray Patents. Upon information and belief, Maxima and ARS are related entities.

6. Defendant Yantai Maxima Automobile Repair Equipment Manufacture Co., Ltd. (“Yantai Maxima”) is a Chinese corporation located at No. 1 Wuzhishan Road, YTETDZ,

Yantai, China 264006 and is in the business of manufacturing, distributing, importing, exporting, marketing, offering for sale, and selling commercial vehicle lifts for the automotive industry, including but not limited to, the Wireless Heavy Duty Column Lift Model ML4030W mobile lift system which infringes on the Gray Patents.

7. Defendant Yantai Bantam Automobile Test & Repair Equipment Manufacture Co., Ltd. (“Yantai Bantam”) is a Chinese corporation located at No. 1 Wuzhishan Road, YTETDZ, Yantai, China 264006 and is in the business of manufacturing, distributing, importing, exporting, marketing, offering for sale, and selling commercial vehicle lifts for the automotive industry, including but not limited to, the Wireless Heavy Duty Column Lift Model ML4030W mobile lift system which infringes on the Gray Patents.

8. Defendant MIT Group / Maxima (“MIT Group”) is a Chinese corporation located at No. 1 Wuzhishan Road, YTETDZ, Yantai, China 264006 and is in the business of manufacturing, distributing, importing, exporting, marketing, offering for sale, and selling commercial vehicle lifts for the automotive industry, including but not limited to, the Wireless Heavy Duty Column Lift Model ML4030W mobile lift system which infringes on the Gray Patents.

The Cooperation Among Defendants To Infringe:

9. Upon information and belief, Defendant ARS, Defendant Maxima, Defendant Yantai Maxima, and Defendant Yantai Bantam cooperated together and worked in concert to directly infringe upon the Gray Patents, to induce each other to infringe upon the Gray Patents and/or to contribute to the direct infringement of the Gray Patents.

10. Upon information and belief, Defendant ARS, Defendant Maxima, Defendant Yantai Maxima, and Defendant Yantai Bantam are acting in concert at all times relevant herein with joint objectives that included directly infringing upon the Gray Patents, to induce each other to infringe upon the Gray Patents and/or to contribute to the direct infringement of the Gray Patents, such that the act or omission of one of the Defendants is and was in the act or omission of the other.

Alter Ego:

11. Upon information and belief, Defendant ARS and Defendant Maxima are wholly owned, operated, controlled and dominated by each other such that their corporate existence, if any, is the alter ego of each other. Upon information and belief, Defendant ARS and Defendant Maxima have identical or similar ownership and management. Furthermore, upon information and belief, Defendant ARS and Defendant Maxima conduct business as one entity, jointly under the names of each other and fail to maintain any required corporate formalities such that their separate corporate identities, if any, should be ignored.

12. Upon information and belief, Defendant Yantai Maxima, Defendant Yantai Bantam and Defendant MIT Group are wholly owned, operated, controlled and dominated by each other such that their corporate existence, if any, is the alter ego of each other. Upon information and belief, Defendant Yantai Maxima, Defendant Yantai Bantam and Defendant MIT Group have identical or similar ownership and management. Furthermore, upon information and belief, Defendant Yantai Maxima, Defendant Yantai Bantam and Defendant MIT Group conduct business as one entity, jointly under the names of each other and fail to

maintain any required corporate formalities such that their separate corporate identities, if any, should be ignored.

13. Upon information and belief, Defendant ARS, Defendant Maxima, Defendant Yantai Maxima, Defendant Yantai Bantam, and Defendant MIT Group are wholly owned, operated, controlled and dominated by each other such that their corporate existence, if any, is the alter ego of each other. Upon information and belief, Defendant ARS, Defendant Maxima, Defendant Yantai Maxima, Defendant Yantai Bantam and Defendant MIT Group have identical or similar ownership and management. Furthermore, upon information and belief, Defendant ARS, Defendant Maxima, Defendant Yantai Maxima, Defendant Yantai Bantam and Defendant MIT Group conduct business as one entity, jointly under the names of each other and fail to maintain any required corporate formalities such that their separate corporate identities, if any, should be ignored.

Jurisdiction and Venue:

14. This Court has subject-matter jurisdiction under 28 U.S.C. § 1338(a).

15. This Court has personal jurisdiction of the parties and venue is proper in this District under 28 U.S.C. § 1391(b)-(d) and § 1400(b). Upon information and belief, Defendants engage in business in Missouri, in this District, and in the St. Joseph Division, including but not limited to, by offering to sell and selling their products therein.

General Allegations:

16. United States Patent No. 6,634,461 (hereinafter the “’461 Patent”), entitled “Coordinated Lift System,” was duly and legally issued by the United States Patent and Trademark Office (“the Patent Office”) on October 21, 2003.

17. Gray Manufacturing, on August 4, 2005, filed a Request for Reissue of its ’461 Patent in which Gray Manufacturing sought Patent Office review of the validity of the claims of the ’461 patent in view of additional prior art of which Gray Manufacturing recently had become aware. Subsequent thereto, and concurrently with the reissue proceeding, the Patent Office also conducted a reexamination of the ’461 Patent.

18. On August 24, 2010, the Patent Office concluded the reissue of the ’461 Patent and issued to Gray Manufacturing Reissued Patent No. RE41,554 (the ’554 Reissue Patent). On May 17, 2011, the Patent Office issued Reexamination Certificate U.S. 6,634,461 C1, (the “Reexam Certificate”) which sustained the validity of claims 16, 19, 21 – 25, 27, 28, 30, 44, and 46 – 51 of the ’554 Reissue Patent. The Patent Office mistakenly attached the Reexam Certificate to the ’461 Patent. However, on November 2, 2011, the Patent Office approved the issuance of a Certificate of Correction to rectify this error and to attach the Reexam Certificate to the ’554 Reissue Patent.

19. A true and accurate copy of the ’554 Reissue Patent is attached hereto as **Exhibit A** and made a part hereof by reference as though fully set forth herein. A true and accurate copy of the Reexam Certificate is attached hereto as **Exhibit B** and made a part hereof by reference as though fully set forth herein.

20. Gray Manufacturing owns all right, title and interest in and to the ’554 Reissue Patent.

21. United States Patent No. 7,014,012 (hereinafter the "'012 Patent"), also entitled "Coordinated Lift System," was duly and legally issued by the Patent Office on March 21, 2006.

22. Gray Manufacturing owns all right, title and interest in and to the '012 Patent.

23. A true and accurate copy of the '012 Patent is attached hereto as **Exhibit C** and made a part hereof by reference as though fully set forth herein.

24. Gray Manufacturing has designed and is now actively engaged in the manufacturing, marketing and sale of products covered by the '554 Reissue and '012 Patents, including Gray Manufacturing Model WPLS-160 Wireless Portable Lift System, throughout the United States and North America. Collectively the '554 Reissue and the '012 Patents are referred to herein as the "Gray Patents".

25. Gray Manufacturing has and continues to mark all its wireless portable lift systems marketed and sold throughout the United States and North America with their corresponding patent numbers. Upon information and belief, Defendants have been aware of the Gray Patents for years as a result of reference to the Gray Patents on Gray's wireless portable lift systems.

26. On or about November 2, 2011, at a trade show in Las Vegas, Nevada, Defendants demonstrated and offered for sale their Wireless Heavy Duty Column Lift Model ML4030W mobile lift system. At that trade show, Gray Manufacturing notified Defendants that the Wireless Heavy Duty Column Lift Model ML4030W mobile lift system being demonstrated and offered for sale by Defendants infringed upon the Gray Patents.

27. On or about November 9, 2011, Gray provided written notice to Defendants of the infringement and provided Defendants a copy of the Gray Patents.

28. Upon information and belief, despite the fact that Defendants were aware of the Gray Patents, Defendants continue manufacturing, distributing, importing, exporting, marketing, offering for sale, and selling a wireless mobile column lift which infringes on the Gray Patents.

29. Defendants refused to cease and desist from the business of manufacturing, distributing, importing, exporting, marketing, offering for sale, and selling the a wireless mobile column lift which infringes on the Gray Patents.

30. Upon information and belief, Defendants are also actively marketing their infringing product on their website and its sales representatives are authorized to and do in fact offer to sell the infringing products in Missouri, in this District.

Liability:

COUNT I

Infringement of the '554 Reissue Patent Against Defendants

COMES NOW Gray Manufacturing, and for its first cause of action against Defendants, states and alleges as follows:

31. Gray Manufacturing incorporates by reference as though fully set forth herein, ¶¶ 1 through 30.

32. Defendants, without authority to do so, have directly and indirectly infringed and continue to infringe on the '554 Reissue Patent in violation of 35 U.S.C. § 271 by making, using, importing, offering to sell, and selling wireless mobile column lifts. The infringement is active and ongoing, and occurring within and outside of this judicial District.

33. Defendants are aware of their infringement, but nevertheless continue to directly and indirectly infringe on the '554 Reissue Patent.

34. Defendants' direct and indirect infringement of the '554 Reissue Patent, upon information and belief, has been willful and in conscious disregard of Gray Manufacturing's rights.

35. As a direct and proximate result of Defendants' infringement of the '554 Reissue, Gray Manufacturing has been damaged and is entitled to recover damages from Defendants under 35 U.S.C. § 284.

36. Gray Manufacturing does not have an adequate remedy at law. It is now, and will in the future be, irreparably harmed and damaged by Defendants' infringement unless this Court enjoins Defendants from continuing their infringement under 35 U.S.C. § 283.

COUNT II

Infringement of the '012 Patent Against Defendants

COMES NOW Gray Manufacturing, and for its first cause of action against Defendants, states and alleges as follows:

37. Gray Manufacturing incorporates by reference as though fully set forth herein, ¶¶ 1 through 30.

38. Defendants, without authority to do so, have directly and indirectly infringed and continue to infringe on the '012 Patent in violation of 35 U.S.C. § 271 by making, using, importing, offering to sell, and selling wireless mobile column lifts. The infringement is active and ongoing, and occurring within and outside of this judicial District.

39. Defendants are aware of their infringement but nevertheless continue to directly and indirectly infringe on the '012 Patent.

40. Defendants' direct and indirect infringement of the '012 Patent, upon information and belief, has been willful and in conscious disregard of Gray Manufacturing's rights.

41. As a direct and proximate result of Defendants' infringement of the '012 Patent, Gray Manufacturing has been damaged and is entitled to recover damages from Defendants under 35 U.S.C. § 284.

42. Gray Manufacturing does not have an adequate remedy at law. It is now, and will in the future be, irreparably harmed and damaged by Defendants' infringement unless this Court enjoins Defendants from continuing their infringement under 35 U.S.C. § 283.

Prayer for Relief:

WHEREFORE, Plaintiff Gray Manufacturing prays for the following judgments and relief against Defendants under all Counts:

a. Judgment that Defendants have infringed upon United States Patent Nos. RE41,554 and 7,014,012;

b. Judgment under 35 U.S.C. § 283 and Fed. R. Civ. P. 65(d), enjoining Defendants and all those in active concert with them from infringing upon United States Patent Nos. RE41,554 and 7,014,012;

c. Judgment that Defendants be required to account for their profits from infringement of Gray Manufacturing's patents;

d. Judgment against Defendants for damages adequate to compensate Gray Manufacturing for Defendants' infringement under 35 U.S.C. § 284, together with pre-judgment and post-judgment interest;

e. Judgment for treble damages against Defendants under 35 U.S.C. § 284;

f. Judgment for Gray Manufacturing's cost, expenses and reasonable attorneys' fees against Defendants under 35 U.S.C. §§ 284 and 285; and

g. Judgment for such other relief as the Court deems just and proper under the circumstances.

Jury Demand:

Plaintiff demands trial by jury of all issues so triable.

Dated: February 29, 2012

Respectfully submitted,

MURPHY, TAYLOR, SIEMENS & ELLIOTT P.C.

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