

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS**

APR 09 2012

JAMES W. McDORMACK, CLERK
By: *[Signature]* DEP. CLERK**PLAINTIFFS****P. S. PRODUCTS, INC.,
BILLY PENNINGTON, Individually**

v.

No. ~~CV-2012-~~ **4 • 1 2 - CV - 0 2 1 4 SW****MAXSELL CORPORATION
VICO CONFINO, Individually****DEFENDANTS**This case assigned to District Judge *[Signature]*
and to Magistrate Judge *[Signature]***COMPLAINT****TO THE HONORABLE UNITED STATES DISTRICT COURT:**

COMES NOW the Plaintiff, P.S. Products, Inc., and Mr. Billy Pennington, individually, hereafter "Plaintiffs," by and through its attorney, Chris H. Stewart of the Stewart Law Firm, files this Complaint against Defendants, Maxsell Corporation, and Vico Confino, individually, hereafter "Defendants:"

JURISDICTION AND VENUE

1. This Court retains jurisdiction as patent infringement raises a federal question and is proper under 28 U.S.C. § 1331.
2. Pursuant to 28 U.S.C. § 1391, venue in this suit lies in the Eastern District of Arkansas because the actions which gave rise to the claims presented in this complaint occurred in Little Rock, Arkansas, within the Eastern District of Arkansas.
3. Additionally, the Eastern District of Arkansas has personal jurisdiction of the Defendants. Defendants have maintained substantial, continuous and systematic contacts with the state of Arkansas through its business dealings with customers in Arkansas. Plaintiff and Defendant engaged in numerous business activities within the state of Arkansas including phone,

fax, e-mail, and mail communications. Furthermore, Defendant marketed its services and provided customer services to the state of Arkansas. *See* Ark. Code Ann. § 16-4-101 (1987); Ultimatics, Inc. v. Minimatic, Inc., 715 F. Supp. 1448 (E.D. Ark. 1989); and Ferrell v. W. Bend Mut. Ins. Co., 393 F.3d 786 (8th Cir. 2005).

4. Additionally, The Eastern District of California has personal jurisdiction of the Defendants because, among other things, Defendants are engaged in tortuous conduct within the state of Arkansas and in this District, including placing into commerce illegal copies of Plaintiffs' patented products via www.minigadgets.com and inducing third-parties to infringe upon the Plaintiffs' patented products.

**PARTIES RELEVANT TO
PLAINTIFFS' COMPLAINT FOR PATENT INFRINGEMENT**

5. This action is brought by P.S. Products, Inc., and its president, Mr. Billy Pennington, manufacturers of stun guns and other personal security devices, organized within the state of Arkansas with its principal headquarters at 3120 Joshua Street, Little Rock, AR 72204.

6. The Defendant is a manufacture and importer of goods from China and sells the goods as retail and wholesale nationwide. The Defendant is a corporation organized and existing in the state of Florida with business activities throughout the United States, on the World Wide Web and specifically in the state of Arkansas. The Defendant is headquartered at 6601 Lyons Road, Suit D1, Coconut Creek, FL 33073.

7. The Defendant, Mr. Vico Confino, is the Owner of Maxsell Corporation and an officer.

8. Plaintiffs are informed and believe that at all times mentioned in this Complaint, each of the Defendants was the agent of each of the other Defendants and in doing the things averred in this Complaint, was within the course and scope of such agency.

**FACTS APPLICABLE TO CLAIMS IN
PLAINTIFFS' COMPLAINT FOR PATENT INFRINGEMENT**

9. The Plaintiffs specialize in the manufacture and distribution of stun guns, stun devices, gun cleaning kits, and other personal protection devices.

10. The Plaintiffs market and sale its patented products through trade specialty shows, sales associates, retail stores, catalogs and through internet distribution throughout the United States.

11. The Defendant is a manufacturer and importer of goods from China and sells the goods as retail and wholesale nationwide.

12. The Defendants own and operate the website www.maxsell.com, www.maxarmory.com and www.maxdealer.com.

13. On February 5, 2008, United States Letters Patent No. US D561, 294 S, were issued to the Plaintiffs for an invention for a Stun Gun.

14. The Plaintiffs owed the patent No. US D561, 294 S throughout the period of the Defendants infringing acts and still owns the patent.

15. The Plaintiffs' products are one of a kind.

16. The Plaintiffs' designs are its own intellectual property. No goods of this design existed prior to the Plaintiffs' designs and patents.

17. The Plaintiffs are the only holder of patents on products of this kind in the United States.

18. The Blast Knuckle Stun Gun is the Plaintiffs most sought after and sold product.

19. The Plaintiffs makes most of its revenue off of the patented Blast Knuckle® stun gun than any other item it sells.

20. The Plaintiffs have complied with the statutory requirement of placing a notice of the Letters of Patent on all Stun Guns.

21. On information and belief the Plaintiffs learned that the Defendants are selling an illegal copy of the Plaintiffs' product.

22. The Defendants currently sell the illegal products on its websites and catalogs.

23. The Defendants have sold and continue to sell on their websites illegal copies of the Plaintiffs' patents and contributes to third parties selling illegal copies of the Plaintiffs' patents on its websites.

24. 35 U.S.C. § 271 states in part,

“(a) Except as otherwise provided in this title [35 USCS §§ 1 et seq.], whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefore, infringes the patent. (b) Whoever actively induces infringement of a patent shall be liable as an infringer.”

25. The Defendant's actions have violated 35 U.S.C. § 271.

26. The Defendants, intentionally, willfully, and wantonly violated 35 U.S.C. § 271.

27. The Defendants without authority placed in the stream of commerce and offered to sell, the Plaintiffs' patented inventions, within the United States.

28. The Defendants without a licensed from the Plaintiffs placed in the stream of commerce and offered to sell, the Plaintiffs' patented inventions, within the United States.

29. The Defendants have induced individuals and companies to infringe on the Plaintiffs' patented products.

30. A person with an internet connection may find the Defendants' illegal product on the websites, www.maxsell.com, www.maxarmory.com and www.maxdealer.com.

31. The Defendants' product ID for the illegal product is “MAXFIST.”

32. The Defendants list the illegal product in the catalog *Combat Handguns* which is distributed throughout the United States.

33. On February 17, 2012, the Defendants filled an order and shipped one of the illegal products that embodies the Plaintiffs patent to Ms. Kimberly Strange located at 1057 Matt Lane, Hensley, AR 72065.

34. The Defendants directly infringed on the Plaintiffs' patents by placing illegal products on websites it operates.

35. The Plaintiff has suffered lost of reasonable royalties and loss of profits by the Defendant's actions.

36. The Defendants have infringed and are still infringing the Letters of Patents Nos. US D561, 294 S by selling the Stun Guns that embody the patented invention and the Defendants will continue to do so unless enjoined by this Court.

37. The Plaintiffs have complied with the statutory requirements of placing notice and mailing notice of the Letters of Patent on all Stun Guns it manufactures and sells, and has given the Defendants written notice of the infringement.

COUNT I
PATENT INFRINGEMENT

38. Plaintiffs incorporate by reference each and every averment contained in paragraphs 1 through 40 of the Plaintiffs' Complaint, inclusive.

39. The Plaintiffs are the owners of patent No. US D561, 294 S.

40. Defendants directly infringed upon the rights of the Plaintiffs' patent No. US D561, 294 S.

41. Defendants directly infringed on the Plaintiffs' patented stun gun No. US D561, 294 S by placing in the stream of commerce an illegal copy of the Plaintiffs' patented stun gun

No. US D561, 294 S, entitled “*MAXFIST*,” on the website www.maxsell.com, which the Defendants own and operate.

42. Each such infringement by Defendants constitutes a separate and distinct act of infringement. Defendants’ acts of infringement are willful, in disregard of and with indifference to the rights of the Plaintiffs.

43. As a direct and proximate cause of the infringement by Defendants, the Plaintiffs are entitled to reasonable royalties that may be proper under 35 U.S.C. § 284 in amounts to be proven at trial, lost profits in amounts to be proven at trial, enhanced damages as may be proper under 35 U.S.C. § 284 and a reasonable attorney’s fee pursuant to 35 U.S.C. § 285.

COUNT II
PATENT INFRINGEMENT

44. Plaintiffs incorporate by reference each and every averment contained in paragraphs 1 through 46 of the Plaintiffs’ Complaint, inclusive.

45. The Plaintiffs are the owners of patent No. US D561, 294 S.

46. Defendants directly infringed upon the rights of the Plaintiffs’ patent No. US D561, 294 S.

47. Defendants directly infringed on the Plaintiffs’ patented stun gun No. US D561, 294 S by placing in the stream of commerce an illegal copy of the Plaintiffs’ patented stun gun No. US D561, 294 S, entitled “*MAXFIST*,” via *Combat Hanguns*.

48. Each such infringement by Defendants constitutes a separate and distinct act of infringement. Defendants’ acts of infringement are willful, in disregard of and with indifference to the rights of the Plaintiffs.

49. As a direct and proximate cause of the infringement by Defendants, the Plaintiffs are entitled to reasonable royalties that may be proper under 35 U.S.C. § 284 in amounts to be

proven at trial, lost profits in amounts to be proven at trial, enhanced damages as may be proper under 35 U.S.C. § 284 and a reasonable attorney's fee pursuant to 35 U.S.C. § 285.

COUNT III
PATENT INFRINGEMENT

50. Plaintiffs incorporate by reference each and every averment contained in paragraphs 1 through 52 of the Plaintiffs' Complaint, inclusive.

51. The Plaintiffs are the owners of patent No. US D561, 294 S.

52. Defendants directly infringed upon the rights of the Plaintiffs' patent No. US D561, 294 S.

53. Defendants directly infringed on the Plaintiffs' patented stun gun No. US D561, 294 S by placing in the stream of commerce an illegal copy of the Plaintiffs' patented stun gun No. US D561, 294 S, entitled "*MAXFIST*," by selling and shipping the illegal products to Ms. Kimberly Strange located at 1057 Matt Lane, Hensley, AR 72065.

54. Each such infringement by Defendants constitutes a separate and distinct act of infringement. Defendants' acts of infringement are willful, in disregard of and with indifference to the rights of the Plaintiffs.

55. As a direct and proximate cause of the infringement by Defendants, the Plaintiffs are entitled to reasonable royalties that may be proper under 35 U.S.C. § 284 in amounts to be proven at trial, lost profits in amounts to be proven at trial, enhanced damages as may be proper under 35 U.S.C. § 284 and a reasonable attorney's fee pursuant to 35 U.S.C. § 285.

COUNT IV
PATENT INFRINGEMENT

56. Plaintiffs incorporate by reference each and every averment contained in paragraphs 1 through 58 of the Plaintiffs' Complaint, inclusive.

57. The Plaintiffs are the owners of patent No. US D561, 294 S.

58. Defendants directly infringed upon the rights of the Plaintiffs' patent No. US D561, 294 S.

59. Defendants directly infringed on the Plaintiffs' patented stun gun No. US D561, 294 S by placing in the stream of commerce an illegal copy of the Plaintiffs' patented stun gun No. US D561, 294 S, entitled "*MAXFIST*," on the website www.maxarmory.com.

60. Each such infringement by Defendants constitutes a separate and distinct act of infringement. Defendants' acts of infringement are willful, in disregard of and with indifference to the rights of the Plaintiffs.

61. As a direct and proximate cause of the infringement by Defendants, the Plaintiffs are entitled to reasonable royalties that may be proper under 35 U.S.C. § 284 in amounts to be proven at trial, lost profits in amounts to be proven at trial, enhanced damages as may be proper under 35 U.S.C. § 284 and a reasonable attorney's fee pursuant to 35 U.S.C. § 285.

COUNT V
PATENT INFRINGEMENT

62. Plaintiffs incorporate by reference each and every averment contained in paragraphs 1 through 64 of the Plaintiffs' Complaint, inclusive.

63. The Plaintiffs are the owners of patent No. US D561, 294 S.

64. Defendants directly infringed upon the rights of the Plaintiffs' patent No. US D561, 294 S.

65. Defendants directly infringed on the Plaintiffs' patented stun gun No. US D561, 294 S by placing in the stream of commerce an illegal copy of the Plaintiffs' patented stun gun No. US D561, 294 S, entitled "*MAXFIST*," on the website www.maxdealer.com.

66. Each such infringement by Defendants constitutes a separate and distinct act of infringement. Defendants' acts of infringement are willful, in disregard of and with indifference to the rights of the Plaintiffs.

67. As a direct and proximate cause of the infringement by Defendants, the Plaintiffs are entitled to reasonable royalties that may be proper under 35 U.S.C. § 284 in amounts to be proven at trial, lost profits in amounts to be proven at trial, enhanced damages as may be proper under 35 U.S.C. § 284 and a reasonable attorney's fee pursuant to 35 U.S.C. § 285.

Therefore, the Plaintiffs demand:

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs prays for judgment against Defendants, and each of them jointly and severally, as follows:

A. Judgment against the Defendants declaring that the Defendants' actions directly infringe on the Defendants' patents Nos. US D561, 294 S;

B. Defendants' reasonable royalties that may be proper under 35 U.S.C. § 284 in amounts to be proven at trial;

C. Defendants' lost profits with respect to each patent infringement in amounts to be proven at trial;

D. Enhanced damages that may be proper under 35 U.S.C. § 284 with respect to each patent infringement for the Counter-Defendant's willful infringement;

E. A declaration that the Plaintiffs' case against the Defendants is an exceptional case pursuant to 35 U.S.C. § 285 and therefore subject to attorneys' fees;

F. An award of costs and attorneys' fee to the Defendants; and,

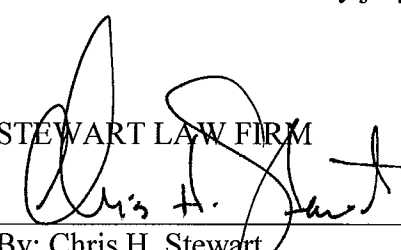
G. Such other relief as the Court deems just and reasonable.

DEMAND FOR A JURY TRIAL

Plaintiffs demand a trial by jury as to all claims averred herein that are triable by jury.

Dated: April 9th, 2012

STEWART LAW FIRM



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