

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

JACK O. CARTNER and)	
MOTRIM, INC.,)	Case No.
)	
Plaintiffs,)	
v.)	
)	
ALAMO GROUP, INC.,)	COMPLAINT FOR
)	PATENT INFRINGEMENT
Defendant.)	WITH JURY DEMAND
)	

THE PARTIES

1. Plaintiff Jack O. Cartner (“Cartner”) is an individual citizen of the United States residing at 6383 William Avenue, Cambridge, Ohio 43725.
2. Plaintiff Motrim, Inc. (“Motrim”) is a corporation organized under the laws of the State of Ohio with an address at 240 Stuebenville Avenue, Cambridge, Ohio 43725. Motrim is a supplier of industrial mowing and trimming equipment.
3. Cartner is the President of Motrim.
4. Upon information and belief, defendant, Alamo Group, Inc. (“Alamo”), is a corporation organized under the laws of the State of Delaware with an address at 1502 East Walnut Street, Seguin, Texas 78155.

5. Alamo is a supplier of industrial mowing and trimming equipment under a variety of brands, including ALAMO INDUSTRIAL and TIGER, and is a competitor of Motrim. Upon information and belief, Alamo sells industrial mowing and trimming equipment in the State of Ohio and in this judicial district.

JURISDICTION AND VENUE

6. This is an action for patent infringement under the laws of the United States, specifically 35 U.S.C. § 281.

7. This court has subject matter jurisdiction under the provisions of 28 U.S.C. §§ 1331 and 1338(a) and under 35 U.S.C. § 281, because this action arises under the patent laws of the United States.

8. This court has personal jurisdiction over Alamo, because the cause of action asserted herein arises from Alamo's transaction of business in this State, from Alamo's causing tortious injury to plaintiffs in this State, and from Alamo's causing tortious injury to plaintiffs in this State by acts outside this State.

9. Specifically, this Court has personal jurisdiction over Alamo because, upon information and belief, Alamo has sold and/or offered for sale in the State of Ohio and in this judicial district mowers that infringe Cartner's patents.

10. Venue is proper in this judicial district because, upon information and belief, Alamo is subject to personal jurisdiction in this judicial district and thus resides in this judicial district under 28 U.S.C. § 1391(c).

FACTUAL BACKGROUND

11. Cartner has been an innovator in the field of industrial mowing and trimming equipment and has been granted numerous U.S. patents in the field.

12. Cartner has invented a novel hydraulic control system for quickly and safely decelerating the rotation of a hydraulic motor when the motor is being shut down to prevent prolonged spinning of associated components such as mower blades after shut down.

13. On March 20, 1993, U.S. Patent No. 5,197,284 (“the ‘284 patent”) was issued to Cartner. The ‘284 patent is entitled “Hydraulic Motor Deceleration System.” A copy of the ‘284 patent is attached as Exhibit A.

14. On May 14, 2007, attorneys for Cartner filed in the U.S. Patent and Trademark Office (“PTO”) a Request for Certificate of Correction of Patent for PTO Mistake to correct a typographical error made by the PTO in claim 12 of the ‘284 patent. A copy of this request is attached as Exhibit B.

15. Cartner has invented a novel mower head with a movable guard that provides enhanced safety features to protect operators and bystanders from the risk of injury and to protect equipment from damage when the mower head confronts obstacles such as fence posts and trees.

16. On March 6, 2007, U.S. Patent No. 7,185,479 B1 (“the ‘479 patent”) was issued to Cartner. The ‘479 patent is entitled “Mower Head with Movable Guard.” A copy of the ‘479 patent is attached as Exhibit C.

17. Cartner is the owner of the entire right, title, and interest in and to the ‘284 patent and the ‘479 patent (collectively “the patents in suit”).

18. Motrim has an exclusive license to manufacture, offer for sale, and sell products covered by the claims of the patents in suit.

19. Upon information and belief, Alamo manufactures, offers for sale, and sells industrial mowers, including the A-BOOM and MACHETE boom arm mowers sold under Alamo's ALAMO INDUSTRIAL brand and various boom mowers and rotary mowers sold under Alamo's TIGER brand, that are covered by one or more claims of the '284 patent either literally or under the doctrine of equivalents.

20. Upon information and belief, Alamo manufactures, offers for sale, and sells mower heads, including the BOOM-AXE rotary brush cutter sold under Alamo's ALAMO INDUSTRIAL brand, that are covered by one or more claims of the '479 patent either literally or under the doctrine of equivalents.

21. Alamo is not authorized to practice the subject matter claimed in either of the patents in suit.

COUNT I
Infringement of the '284 Patent

22. Plaintiffs incorporate herein the allegations of paragraphs 1 through 21 above.

23. By making, offering for sale, and/or selling the accused products, in particular the A-BOOM and MACHETE boom arm mowers sold under Alamo's ALAMO INDUSTRIAL brand and various boom mowers and rotary mowers sold under Alamo's TIGER brand, Alamo has infringed, contributed to infringement of, and/or induced infringement of one or more claims of the '284 patent in violation of 35 U.S.C. § 271.

24. Upon information and belief, Alamo will continue its infringing conduct to the detriment of plaintiffs unless enjoined by this Court.

25. Upon information and belief, Alamo's infringement has been willful, intentional, and in conscious disregard of plaintiffs' rights in the '284 patent.

26. Alamo, by its infringement of the '284 patent, has damaged plaintiffs and unlawfully derived profits and gains that plaintiffs otherwise would have received and to which plaintiffs are entitled.

27. Plaintiffs have suffered and are suffering irreparable injury as a result of Alamo's infringement of the '284 patent and have no adequate remedy at law.

COUNT II
Infringement of the '479 Patent

28. Plaintiffs incorporate herein the allegations of paragraphs 1 through 21 above.

29. By making, offering for sale, and/or selling the accused products, in particular the BOOM-AXE rotary brush cutter sold under Alamo's ALAMO INDUSTRIAL brand, Alamo has infringed, contributed to infringement of, and/or induced infringement of one or more claims of the '479 patent in violation of 35 U.S.C. § 271.

30. Upon information and belief, Alamo will continue its infringing conduct to the detriment of plaintiffs unless enjoined by this Court.

31. Alamo, by its infringement of the '479 patent, has damaged plaintiffs and unlawfully derived profits and gains that plaintiffs otherwise would have received and to which plaintiffs are entitled.

32. Plaintiffs have suffered and are suffering irreparable injury as a result of Alamo's infringement of the '479 patent and have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs, Jack O. Cartner and Motrim, Inc., pray for relief as follows:

(a) That this Court enter a decree holding that defendant has infringed, contributed to the infringement of, and induced infringement of the '284 patent and the '479 patent;

(b) That this Court order that defendant, its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them be preliminarily and permanently enjoined manufacturing and selling the accused products and from otherwise infringing either of the patents in suit;

(c) That plaintiffs be awarded damages adequate to compensate them for defendant's infringement of the patents in suit in accordance with 35 U.S.C. § 284, but in any event not less than a reasonable royalty;

(d) That, as a result of defendant's willful patent infringement, the damages be increased up to three (3) times the amount assessed;

(e) That plaintiffs be awarded costs and pre-judgment interest on the damages assessed;

(f) That plaintiffs be awarded their reasonable attorneys' fees under 35 U.S.C. § 285; and

(g) That this Court grant such other and further relief as may be deemed just and proper under the circumstances.

Respectfully submitted,

Date: May 30, 2007

/s/ Philip J. Moy Jr.
Philip J. Moy Jr. (0043568)
FAY SHARPE LLP
1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114-2579
Telephone: 216-861-5582
Facsimile: 216-241-1666
E-Mail: pmoy@faysharpe.com

Attorneys for Plaintiffs
JACK O. CARTNER and MOTRIM, INC.

JURY DEMAND

Trial by jury of the maximum number of jurors allowed by law is hereby demanded.

Respectfully submitted,

Date: May 30, 2007

/s/ Philip J. Moy Jr.
Philip J. Moy Jr. (0043568)
FAY SHARPE LLP
1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114-2579
Telephone: 216-861-5582
Facsimile: 216-241-1666
E-Mail: pmoy@faysharpe.com

Attorneys for Plaintiffs
JACK O. CARTNER and MOTRIM, INC.