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3:04-CV-02182 HENRY GRIFFITTS INC V. ACUSHNET COMPANY

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CMP.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

04 OCT 29 AM 11:57

HENRY-GRIFFITTS, INC.
a Delaware corporation,

Plaintiff,

v.

**ACUSHNET COMPANY D/B/A TITLEIST GOLF
ROGER CLEVELAND GOLF COMPANY, INC.
TAYLOR MADE GOLF COMPANY**

Defendants.

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
'04 CV 2182
LAB (RBE)
DEPUTY
Court File No. _____

**COMPLAINT
(JURY TRAIL DEMANDED)**

INTRODUCTION

This is an action by plaintiff Henry-Griffitts, Inc. for patent infringement against defendants Acushnet Company d/b/a Titleist Golf, Roger Cleveland Golf Company, Inc. and Taylor Made Golf Company.

JURISDICTION AND VENUE

1. This action arises under the United States Patent Laws, 35 U.S.C. § 101, *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
2. Venue is proper before this Court pursuant to 28 U.S.C. § 1391 and/or § 1400.

PARTIES

3. Plaintiff Henry-Griffitts, Inc. is a Idaho corporation with a place of business at 827 W. Prairie Avenue, Hayden Lake, ID 83835.

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL**

4. Defendant Acushnet Company, Inc. d/b/a Titleist Golf, is a Delaware corporation with a place of business at 2819 Loker Ave E, Carlsbad, CA, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

5. Defendant Roger Cleveland Golf Company, Inc. is a California corporation with a place of business at 5630 Cerritos Avenue, Cypress, California 90630, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

6. Defendant Taylor Made Golf Company, Inc. is a Delaware corporation with a place of business at 3345 Fermi Ct., Carlsbad, California, 92008, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

COUNT: PATENT INFRINGEMENT

7. The allegations of paragraphs 1-6 above are incorporated by reference as if fully set forth herein.

8. Plaintiff Henry-Griffitts, Inc. is the owner by assignment of U.S. Patent No. 4,932,662 ("the '662 patent"), which was duly and legally issued on June 12, 1990 and is entitled "GOLF CLUB LIE ANGLE EVALUATION DEVICE".

9. In violation of one or more provisions of 35 U.S.C. § 271, each of the Defendants has infringed, and continues to infringe, one or more of the claims of the '662 patent by making, using, importing, selling and/or offering for lie angle evaluation products in this judicial district and elsewhere.

10. Defendants' acts of infringement have been and are willful.

11. Defendants' acts of infringement have caused and are causing reparable and irreparable damage to Plaintiff, and Plaintiff will continue to suffer damage unless Defendants are enjoined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court:

- A. Enter judgment that Defendants have infringed U.S. Patent No. 4,932,662;
- B. Enter judgment that Defendants' acts of patent infringement have been and are willful;
- C. Temporarily, preliminarily and permanently enjoin Defendants, their parents, subsidiaries, affiliates, divisions, officers, agents, servants, employees, directors, partners, representatives, and all other persons in active concert and/or participating with them, from engaging in the aforesaid unlawful acts of infringement;
- D. Order Defendants to account for and pay to Plaintiff all damages caused to Plaintiff by Defendants' unlawful acts;
- E. Award Plaintiff increased damages and attorney fees pursuant to 35 U.S.C. §§ 284 and 285;
- F. Award Plaintiff its interest and costs incurred in this action; and
- E. Grant Plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIALS

Plaintiff demands a jury trial of all issues triable of right by jury.

Respectfully submitted,

By: 

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Austin, Texas 78746
(512) 306-8533

*not yet admitted

Attorneys for Plaintiff
Henry-Griffitts, Inc.

Dated: 10/29, 2004

AO 120 (3/85)

TO: Commissioner of Patents and Trademarks Washington, D.C. 20231	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT
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In compliance with the Act of July 19, 1952 (66 Stat. 814; 35 U.S.C. 290) you are hereby advised that a court action has been filed on the following patent(s) in the U.S. District Court:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
04CV2182 LAB (RBB)	10/29/04	United States District Court, Southern District of California
PLAINTIFF Henry-Griffitts, Inc.		DEFENDANT Acushnet Company; Roger Cleveland Golf Co., Inc.; Taylor Made Golf Co.
PATENT NO.	DATE OF PATENT	PATENTEE
1 4,932,662		Henry-Griffitts, Inc.
2		
3		
4		
5		

In the above-entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY			
	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill	<input type="checkbox"/> Other Pleading
PATENT NO.	DATE OF PATENT	PATENTEE		
1				
2				
3				
4				
5				

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT		
CLERK	(BY) DEPUTY CLERK	DATE

JS 44
(Rev. 3/99)

CIVIL COVER SHEET

The JS-44 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 provided 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.)

FILED

I. (a) PLAINTIFFS

Henry-Griffitts, Inc.

DEFENDANTS

Acushnet Company, d/b/a Titleist Golf Club
 Roger Cleveland Golf Company, Inc.
 TaylorMade Golf Company
 CLERK, U.S. DISTRICT COURT
 DISTRICT OF CALIFORNIA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Kootenai County Idaho
 (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT San Diego
 (IN U.S. PLAINTIFF CASES ONLY) DEPUTY

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(C) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

David Sean Dufek
 Law Office of David Sean Dufek
 2655 Camino Del Rio North, Suite 203
 San Diego CA 92108 T: 619-222-5586

ATTORNEYS (IF KNOWN)

'04 CV 2182 LAB (RBB)

II. BASIS OF JURISDICTION (PLACE AN "X" IN 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 (PLACE AN "X" IN 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 |

IV. NATURE OF SUIT (PLACE AN "X" IN 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	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	<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 checked="" 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/CC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <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"/> 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 Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
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"/> 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 HIA (1395a) <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(g)) 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

(PLACE AN "X" IN 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 AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

35 U.S.C. § 101 et seq. Patent Infringement

35:0271 GP

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER FR.C.P 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: YES NO

VIII. RELATED CASE(S) (See instructions): IF ANY

NA

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/29/04

David Sean Dufek

FOR OFFICE USE ONLY

RECEIPT # 108236 AMOUNT 150.00 APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

10/29/04 VB