

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AISIN SEIKI CO., LTD.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
BORGWARNER INC., and)	DEMAND FOR JURY TRIAL
BORGWARNER MORSE TEC INC.)	
)	
Defendants.)	
_____)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Aisin Seiki Co., Ltd., by its undersigned attorneys, brings this action against Defendants BorgWarner Inc. and BorgWarner Morse TEC Inc. (collectively “Defendants”) for infringement of United States Patent Nos. 5,775,279 (the “279 patent”) and 5,836,277 (the “277 patent”) and alleges as follows:

PARTIES

1. Plaintiff Aisin Seiki Co., Ltd. (“Aisin Seiki”) is a corporation duly organized and existing under the laws of Japan, and has its principal place of business at 2-1, Asahi-machi, Kariya, Aichi, 448-8650, Japan.

2. Upon information and belief, Defendant BorgWarner Inc. is a Delaware corporation having its principal place of business at 3850 Hamlin Road, Auburn Hills, Michigan 48326.

3. Upon information and belief, Defendant BorgWarner Morse TEC Inc. is a Delaware corporation having its principal place of business at 800 Warren Road, Ithaca, New York 14850. Upon further information and belief, Defendant BorgWarner Morse TEC Inc. is a wholly-owned subsidiary of Defendant BorgWarner Inc.

BACKGROUND

4. Aisin Seiki is the owner by assignment of all right, title and interest in and to the '279 patent entitled "VALVE TIMING CONTROL DEVICE." The '279 patent was duly and legally issued by the United States Patent and Trademark Office on July 7, 1998. A true and correct copy of the '279 patent is attached hereto as Exhibit A.

5. Aisin Seiki is the owner by assignment of all right, title and interest in and to the '277 patent entitled "VALVE TIMING CONTROL DEVICE." The '277 patent was duly and legally issued by the United States Patent and Trademark Office on November 17, 1998. A true and correct copy of the '277 patent is attached hereto as Exhibit B.

JURISDICTION AND VENUE

6. This action arises under the federal patent laws, 35 U.S.C. §§ 101 *et seq.* This Court has subject matter jurisdiction over this action based on 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendants because, among other things, they are incorporated under the laws of Delaware and Defendants have directly infringed, contributed to the infringement of, and/or actively induced infringement of Aisin Seiki's '279 and '277 patents within this judicial district.

8. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400.

**FIRST CLAIM FOR RELIEF
(For Infringement of United States Patent No. 5,775,279)**

9. Aisin Seiki incorporates paragraphs 1-8 by reference as if set forth here in full.

10. Defendants have been and are now making, using, selling, offering for sale within the United States, or importing into the United States, variable camshaft timing components for vehicles that infringe the '279 patent.

11. Defendants have been and now are contributing to the infringement of, and/or actively inducing the infringement of, the '279 patent by others by, among other things, distributing or offering for sale variable camshaft timing components for vehicles that directly infringe the '279 patent.

12. On information and belief, Defendants have had actual knowledge of the '279 patent and their infringement has been willful.

13. Defendants' past and continued acts of infringement have injured Aisin Seiki and thus Aisin Seiki is entitled to recover damages adequate to compensate for that infringement.

14. Defendants' acts of infringement have caused and will continue to cause irreparable injury to Aisin Seiki unless and until enjoined by this Court.

SECOND CLAIM FOR RELIEF
(For Infringement of United States Patent No. 5,836,277)

15. Aisin Seiki incorporates paragraphs 1-14 by reference as if set forth here in full.

16. Defendants have been and are now making, using, selling, offering for sale within the United States, or importing into the United States, variable camshaft timing components for vehicles that infringe the '277 patent.

17. Defendants have been and now are contributing to the infringement of, and/or actively inducing the infringement of, the '277 patent by others by, among other things,

distributing or offering for sale variable camshaft timing components for vehicles that directly infringe the '277 patent.

18. On information and belief, Defendants have had actual knowledge of the '277 patent and their infringement has been willful.

19. Defendants' past and continued acts of infringement have injured Aisin Seiki and thus Aisin Seiki is entitled to recover damages adequate to compensate for that infringement.

20. Defendants' acts of infringement have caused and will continue to cause irreparable injury to Aisin Seiki unless and until enjoined by this Court.

PRAYER FOR RELIEF

Aisin Seiki prays for relief as follows:

- (1) For entry of judgment that Defendants infringe the '279 and '277 patents;
- (2) For an order enjoining Defendants, their directors, officers, employees, attorneys, agents, and all persons in active concert or participation with any of the foregoing from further acts that infringe the '279 and '277 patents;
- (3) For an award of damages adequate to compensate Aisin Seiki for Defendants' infringement of the '279 and '277 patents, in an amount to be determined at trial, together with interest and costs as fixed by the Court;
- (4) For a declaration that Defendants' infringement has been willful and an order trebling all compensatory damages;
- (5) For a declaration that this case is "exceptional" pursuant to 35 U.S.C. § 285 and that Plaintiff is thereby entitled to an award of its attorneys' fees incurred in prosecuting this action; and

(6) For such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff Aisin Seiki Co., Ltd. hereby demands a trial by jury of all issues so triable in this action.

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