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MOSELEY BIEHL TSUGAWA LAU & MUZZI
A Hawaii Limited Liability Law Company

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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at 11 o'clock and 00 min. A.M. *AS*
SUE BEITIA, CLERK

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HAWAII AIRBOARDS, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

HAWAII AIRBOARDS, LLC,
a Hawaii Limited Liability
Company,

Plaintiff,

v.

NRS PROPERTIES, LLC d/b/a NRS
an Idaho Limited Liability
Company,

and

NORTHWEST RIVER SUPPLIES,
INC. d/b/a NRS
an Idaho Corporation,

Defendants.

CV11-00651 SOM-BMK

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT;
EXHIBIT A; DEMAND FOR JURY
TRIAL; SUMMONS**

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, HAWAII AIRBOARDS, LLC, by and through its attorneys, Moseley Biehl, Tsugawa Lau & Muzzi, LLLC, hereby complains of Defendants NRS PROPERTIES, LLC d/b/a NRS and NORTHWEST RIVER SUPPLIES, INC. d/b/a NRS as follows:

I. PARTIES

1. Plaintiff HAWAII AIRBOARDS, LLC (“HAWAII AIRBOARDS”) is a limited liability company organized and existing under the laws of the State of Hawaii with its principal office located in Kailua, Hawaii.

2. Defendant NRS PROPERTIES, LLC d/b/a NRS (“NRSP”) is a limited liability company organized and existing under the laws of the State of Idaho, with its principal place of business located at 2009 S Main St, Moscow, Idaho 83843.

3. Defendant NORTHWEST RIVER SUPPLIES, INC. d/b/a NRS (“NRSI”) is a corporation organized and existing under the laws of the State of Idaho, with its principal place of business located at 2009 S Main St, Moscow, Idaho 83843. Both defendants, NRSP and NRSI, are collectively referred to herein as “NRS” or “Defendant.”

II. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.* This Court has personal jurisdiction over NRS because it has established minimum contacts within the forum which are continuous and systematic, and, on information and belief, has committed acts giving rise to this action within Hawaii and this judicial district, such that the exercise of jurisdiction over NRS would not offend traditional notions of fair play and substantial justice.

5. Venue properly lies in the District of Hawaii pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b), because NRS is subject to this court's personal jurisdiction, has committed acts within this judicial district giving rise to this action, and Defendant conducts business in this judicial district, including one or more of the infringing acts of offering for sale or selling to consumers in this district.

III. CLAIMS

6. HAWAII AIRBOARDS realleges and incorporates by reference the allegations set forth in Paragraphs 1-5 above as if fully set forth herein.

7. United States Patent Number 6,066,016 ("the '016 Patent") is entitled "Inflatable Transportable Water Craft for Survival or Other Recreational Applications" and was duly and legally issued to Robert N. Yonover on May 23,

2000. All rights and interest in the '016 Patent have been assigned to HAWAII AIRBOARDS. A true and correct copy of the patent-in-suit as issued is attached hereto as Exhibit A.

8. NRS is engaged in the business of making, offering for sale, selling, and distributing inflatable stand-up paddleboards (“inflatable SUPs”), under the NRS brand to consumers throughout the United States, including Hawaii, such as, for example, the “NRS Big Earl SUP Board.” On its website – www.nrsweb.com (last visited on October 20, 2011) – NRS advertises its inflatable SUP as follows:

The screenshot shows the NRS website interface. At the top, there is a navigation bar with links for Dealer Locator, Email Us, Login or Register, and My Cart. Below this is a search bar and a navigation menu with categories like Fit Lists, Library, Video Library, Travel Center, Community, International, and Customer Service. The main content area features a sidebar on the left titled 'What's Hot' and 'Shop Gear'. The main product listing is for the 'NRS Big Earl SUP Board' priced at \$995.00. The product image shows a long, narrow inflatable board. To the right of the image, there are options for color (Gray/Orange, \$995.00), quantity (1), and an 'Add to Cart' button. Below the product image, there is a 'Product Rating' section with a 'Share' button and a 'Write a Review' link. The 'More Information' section includes links to 'What is Drop Stitch' and 'Whitewater SUP'. The product description states: 'Get up, stand up and get into the stand up paddling world! The NRS Big Earl SUP Board is your ticket to adventure and exercise, whether you're gliding on calm water or challenging big waves. Inflatable, rigid, fun!' and lists two bullet points: 'Stand up paddling is taking the watersports world by storm. You can get a full body workout on flatwater and surf the big stuff too.' and 'The NRS Stand Up Paddle Board is inflatable, so it rolls up compactly. Easily transport it to the water in the trunk or backseat with the added convenience of the carrying case that comes with it.'

9. On its website, NRS identifies three (3) dealers located within this judicial district which carry NRS products, i.e., Go Bananas – Pearlcity (98-390 Kam Hwy, Aiea, Hawaii 96701), Go Bananas – Waikiki (799 Kapahulu Ave, Honolulu, Hawaii 96816), and Tri Paddle Maui (92 N Market St., Suite B, Wailuku, Hawaii 96793):



NRS Dealer Locator

(Miles*)

 or

 or

(United States or Canada)

Results for 'Hawaii'

Dealer Results	Dealer Map
<p>A Go Bananas - Pearlcity 98-390 Kam Hwy Aiea, Hawaii 96701 p: 808.487.3400 e: info@gobananaskayaks.com http://www.gobananaskayaks.com NRS Products Carried Get Directions</p> <hr/> <p>B Go Bananas - Waikiki 799 Kapahulu Ave Honolulu, Hawaii 96816 p: 808.737.9514 e: info@gobananaskayaks.com http://www.gobananaskayaks.com NRS Products Carried Get Directions</p> <hr/> <p>C Tri Paddle Maui 92 N Market St, Suite B Wailuku, Hawaii 96793 p: 808.243.7235 / 800.422.5481</p>	<p>Map</p> <p>Map data ©2011 Google - Terms of Use</p>

10. Through its interactive website, NRS sells or offers for sale its products, including its “NRS Big Earl SUP Board” to residents of all 50 States, including, on information and belief, to residents within this judicial district and provides specific shipping time estimates, including shipments to this judicial district:

NRS Dealer Locator | Email Us | Login or Register
877.677.4327 | My Cart

Fit Lists | Library | Video Library | Travel Center | Community | International | Customer Service

Enter Keywords or Item # **FREE Shipping on Orders Over \$75***

NRS Home > Contact Us > Shipping Information

What's Hot
Fall Clearance Sale
Yard Sale
Clearance Rack
New Products
Gift Guide

Shop Gear
Apparel
Bags & Boxes
Boats & Inflatables
Camping & More
Canoes
Float Tubes
Frames
Fun Stuff
Helmets
Kayak Accessories
Kayak Flotation
Kayak Outfitting
Kids Gear
Life Jackets
Oars
Paddles
Pumps
Repair
Roof Racks
Safety & Rescue
Sprayskirts & Covers
Straps
Videos & Books
Outfitter Gear List

Shipping and Handling Chart

Shipping Transit Time Calculator*

Shipping and Handling Fees

Merchandise Total	Standard & Priority Mail	3-Day	2-Day	Overnight
\$0 - \$75	\$ 5.95	\$ 12	\$ 15	\$ 30
\$75.01 - \$150	FREE	\$ 15	\$ 25	\$ 40
\$150.01 & up	FREE	\$ 20	\$ 35	\$ 65

*All transit "Days" = Business days (Saturday, Sunday and Holidays are excluded).
We make every effort to ship orders the same day they are received by 1pm (PST).
Orders placed after 1pm on Friday will be shipped the following Monday.

Standard Delivery

- UPS and FedEx Ground.
- Delivers in 1-7 business days from the west coast to the east coast. Please use the [Transit Time Calculator](#) for your area.
- No PO Box allowed.

USPS Priority Mail

- Use for P.O. Boxes and military addresses.
- Delivers in 2-4 business days.

3-Day Delivery

- UPS 3-Day Select service.
- Delivers in 3-4 business days.

2-Day Delivery

- UPS & FedEx 2-day services.
- Delivers in 2 business days.
- HI, AK & PR - may require additional transit days

Overnight Delivery

- UPS & FedEx Overnight services.
- Delivers in 1 business day.
- HI, AK & PR - may require additional transit days

Saturday Delivery

- FedEx Saturday service.
- Delivers on Saturday.
- USA Lower 48 - Not available in all areas.
- Please call 877.677.4327 to use this option.

Alaska, Hawaii, Puerto Rico and Military Addresses

- May require additional transit days.
- Standard delivery not available.
- Please use US Priority Mail for all Military Addresses.

11. NRS has infringed and continues to infringe under 35 U.S.C. § 271 the '016 Patent. The infringing acts include, but are not necessarily limited to, making, offering for sale, selling and distributing the product(s) identified in Paragraph 7, above.


12. Defendant's acts of infringement have caused damage to HAWAII AIRBOARDS. Under 35 U.S.C. § 284, HAWAII AIRBOARDS is entitled to recover from Defendant the damages sustained by HAWAII AIRBOARDS as a result of its infringement of the '016 Patent. Defendant's infringement on HAWAII AIRBOARDS' exclusive rights under the '016 Patent will continue to damage HAWAII AIRBOARD causing irreparable harm, for which there is no adequate remedy of law, unless enjoined by this Court under 35 U.S.C. § 283.

PRAYER FOR RELIEF

WHEREFORE, HAWAII AIRBOARDS, LLC respectfully requests that this Court enter judgment against Defendants NRS PROPERTIES, LLC and NORTHWEST RIVER SUPPLIES, INC. as follows:

- (a) NRS has infringed and continues to infringe the '016 Patent;
- (b) NRS and its respective directors, officers, employees, agents, subsidiaries, parents, attorneys, and all persons acting in concert, on behalf of, in joint venture, or in partnership with NRS be preliminary and permanently enjoined under 35 U.S.C. § 283 against any further acts of infringement;
- (c) For damages to be paid by NRS adequate to compensate HAWAII AIRBOARDS, LLC for all infringement of the '016 Patent, including interest, costs and disbursements as justified under 35 U.S.C. § 284;
- (d) For judgment finding this to be an exceptional case, and awarding HAWAII AIRBOARDS, LLC attorney fees under 35 U.S.C. § 285; and
- (e) For such further relief at law and in equity as the Court may deem just and proper.

DATED: Honolulu, Hawaii, December 21, 2011.



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HAWAII AIRBOARDS, LLC