

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

SIG SAUER INC.,

Plaintiff,

v.

ISRAEL WEAPON INDUSTRIES LTD.

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT OF NONINFRINGEMENT

For its complaint, Plaintiff Sig Sauer Inc., by and through its attorneys, avers as follows:

PARTIES

1. The plaintiff, Sig Sauer Inc. (“Sig Sauer”) is a Delaware corporation with its principal place of business located at 18 Industrial Drive, Exeter, New Hampshire 03833.
2. Upon information and belief, the defendant, Israel Weapon Industries Ltd. (“IWI”), is an Israeli corporation with its principal place of business at 64 Bialik Boulevard, Ramat Hasharon 47205, Israel.

JURISDICTION AND VENUE

3. This complaint arises under the patent laws of the United States, 35 U.S.C. §§ 101 *et seq.* and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.
4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) and because this action arises under the patent laws of the United States.
5. This Court has personal jurisdiction over IWI because IWI has sufficient contacts with this jurisdiction, in particular, with the events herein alleged and, generally, upon

information and belief, IWI advertises and sells its products through its website to New Hampshire residents.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b) as a consequence of IWI's contacts with this District generally and, in particular, in connection with the events herein alleged, including but not limited to correspondence sent to Sig Sauer relating to the dispute.

FACTUAL ALLEGATIONS

7. Based in Exeter, NH, Sig Sauer is a world renowned manufacturer of firearms, supplying firearms to many of the premier military, law enforcement and commercial organizations around the world.

8. Sig Sauer has a rich history of innovation and design leadership and, in cooperation with its sister companies around the globe, continues to advance the design practice of firearms. No other firearms manufacturer is so highly regarded and so universally respected for the quality, reliability and safety of its products as Sig Sauer.

9. On information and belief, IWI is an Israeli firearms manufacturer that develops and manufactures guns and rifles used by armies and law enforcement agencies around the world.

10. On December 23, 2012, Jonathan Agmon of Soroker Agmon, Advocates and Patent Attorneys sent a letter (the "Agmon Letter") to Ron Cohen, CEO of Sig Sauer, at 18 Industrial Drive, Exeter NH 03833, alleging "unlawful infringement of [IWI's] United States Patent No. 7,311,135."¹ The Agmon Letter demands that, Sig Sauer "cease and desist all patent

¹ Sig Sauer assumes that the Mr. Agmon meant to refer to U.S. Patent No. 7,331,135 because IWI does not appear to be the assignee of U.S. Patent No. 7,311,135.

infringement activities, including manufacturing and offering for sale of the SIG516® rifle.” A true copy of the Agmon Letter is attached as Exhibit A.

11. The Agmon Letter further demanded that Sig Sauer “provide the undersigned with prompt written assurances within no more than ten (10) days that Sig Sauer will cease and desist from further infringement of the invention claimed in the ‘135 patent.”

12. The Agmon Letter warned that, “[i]f Sig Sauer does not comply with this cease and desist demand within the time period, IWI has requested us to communicate to you that they will contemplate pursuing all available legal remedies, including seeking monetary damages, injunctive relief, and an order that Sig Sauer pay court costs and attorney’s fees.”

13. On December 28, 2012, Melissa L.B. Lyons of Sig Sauer (“the Lyons Letter”) wrote to Mr. Agmon setting forth Sig Sauer’s position that its SIG516® rifle does not infringe the claim in U.S. Patent No. 7,331,135 (the “’135 patent”) and advising that the bolt locking housing (the subject of the ’135 patent) on the SIG516® rifle is similar to a design by Heckler & Koch that predates the earliest priority date for the ’135 patent. A true copy of the Lyons Letter is attached as Exhibit B.

14. Sig Sauer has received no response to the Lyons Letter.

COUNT I
(DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE ’135 PATENT)

15. The allegations of Paragraphs 1 through 14 are incorporated by reference into Count I as though fully set forth therein.

16. IWI has claimed it is the assignee of all right, title and interest in the ’135 patent entitled “Internally Asymmetrical Bolt Carrier,” and which issued on February 19, 2008. A true and correct copy of the ’135 patent is attached as Exhibit C.

17. In the Agmon letter, IWI claimed that Sig Sauer's SIG516® rifle infringes the claim of the '135 patent.

18. Sig Sauer's SIG516® rifle has not and does not infringe the claim of the '135 patent, directly or indirectly, literally or under the doctrine of equivalents.

19. An actual, present and justiciable controversy has arisen between Sig Sauer and IWI concerning IWI's allegation of infringement of the '135 patent by Sig Sauer's SIG516® rifle.

20. Sig Sauer seeks a declaration from this Court that Sig Sauer's SIG516® rifle does not now and has not infringed the claim of the '135 patent.

COUNT II
(DECLARATORY JUDGMENT OF INVALIDITY OF THE '135 PATENT)

21. The allegations of Paragraphs 1 through 20 are incorporated by reference into Count II as though fully set forth therein.

22. In the Agmon letter, IWI maintains that the '135 patent is in "full force and effect."

23. The claim of the '135 patent is invalid for failure to comply with one or more of 35 U.S.C. §§ 102, 103 and/or 112.

24. An actual and justiciable controversy exists between Sig Sauer and IWI concerning the validity of the '135 patent.

25. Sig Sauer seeks a declaration from the Court that the '135 patent is invalid.

PRAYER FOR RELIEF

WHEREFORE, Sig Sauer respectfully requests that the Court enter a Judgment and Order IWI as follows:

- a) A judgment declaring that the SIG516® rifle has not and does not infringe, directly or indirectly, literally or under the doctrine of equivalents the claim of the '135 patent;
- b) A judgment declaring that the '135 patent is invalid; and
- c) Granting Sig Sauer such other relief as the Court may deem just, proper and equitable under the circumstances.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Sig Sauer demands a trial by jury on all issues so triable.

Dated: January 15, 2013

Sig Sauer Inc.

By Its Counsel,

/s/ Timothy J. McLaughlin

Timothy J. McLaughlin (NH Bar # 19570)

Joshua C. Krumholz (*pro hac vice* application forthcoming)

Brian J. Colandreo (*pro hac vice* application forthcoming)

Jacob K. Baron (*pro hac vice* application forthcoming)

HOLLAND & KNIGHT LLP

10 St. James Avenue

Boston MA 02116

Tel: (617) 523-2700

Fax: (617) 523-6850

Email: timothy.mclaughlin@hklaw.com

Email: joshua.krumholz@hklaw.com

Email: brian.colandreo@hklaw.com

Email: jacob.baron@hklaw.com