

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

AOB PRODUCTS COMPANY,)	
)	
Plaintiff,)	
)	
vs.)	Case No: 1:22-cv-01695-SO
)	
DBR FINANCE, INC. f/k/a OUTDOOR)	JUDGE SOLOMON OLIVER, JR.
PRODUCT INNOVATIONS, INC. d/b/a)	
WICKED TREE GEAR ,)	JURY TRIAL DEMANDED
)	
)	
Defendant.)	

FIRST AMENDED COMPLAINT

Plaintiff AOB Products Company ("AOB" or "Plaintiff") makes this First Amended Complaint against Defendant DBR Finance, Inc. f/k/a Outdoor Product Innovations, Inc. d/b/a/ Wicked Tree Gear ("Wicked Tree"), demands a jury trial, and alleges as follows:

INTRODUCTION

1. AOB is an industry leading provider of outdoor products and accessories. AOB produces innovative, top quality products under its brands BOG®; BUBBA®; Caldwell®; Crimson Trace®; Frankford Arsenal®; Grilla Grills®; Hooyman®; Imperial®; LaserLyte®; Lockdown®; MEAT!; Old Timer®; Schrade®; Tipton®; Uncle Henry®; ust®; and Wheeler®.
2. AOB is a leading provider of outdoor products and accessories encompassing hunting, fishing, camping, shooting, and personal security and defense products for rugged outdoor enthusiasts.
3. AOB conceives, designs, produces and/or sources, and sells products and accessories, including shooting supplies, rests, vaults, and other related accessories; lifestyle products such as premium sportsman knives and tools for fishing and hunting; land management

tools for hunting preparedness; harvesting products for post-hunt or post-fishing activities; electro-optical devices, including hunting optics, firearm aiming devices, flashlights, and laser grips; reloading, gunsmithing, and firearm cleaning supplies; and survival, camping, and emergency preparedness products.

4. AOB understands and values intellectual property rights and owns in excess of 300 patents and pending patent applications.
5. AOB has 34 employees dedicated to research and development activities.
6. In fiscal years 2021, 2020, and 2019, AOB's gross spending on research and development activities relating to the development of new products was \$5.4 million, \$5.0 million, and \$4.9 million, respectively.
7. In or about 2006, Andrew Hooyman and his co-inventors invented the first Hooyman® extendable tree saw. The Hooyman® extendable tree saw includes a saw on an extendable pole and provides an innovative, compact packable tree saw aimed at hikers, campers and hunters that can be easily and securely extended to much greater lengths in order to clear high brush, sight line obstacles, shooting obstacles or deadfall hazards without needing bulkier equipment or having to risk climbing up to the job. Moreover, the saw can be detached from the extendable pole and used as a handsaw.
8. In 2008, Andrew Hooyman and his family founded Hooyman Saws to commercialize his innovative design.
9. Mr. Hooyman stated of the combined extendable saw that is convertible to a handsaw: "This unique feature, combined with adjustability, an exclusive positive locking design feature, and the strength of aircraft grade aluminum, helped to make the Hooyman Saw a

favorite among consumers as well as recognized hunting sports and outdoor industry personalities."

10. Mr. Hooyman, also said, "We are proud that our original product concept has grown to become a leading brand in the hunting and outdoor industry, a success that we owe to both product innovation and to our loyal customer base."

11. Through a series of transactions, in 2015, Battenfeld Technologies, Inc. acquired Hooyman Saw's assets including the Hooyman® extendable tree saw line and associated patent rights.

12. Through a series of transactions, by 2017, AOB had acquired Battenfeld Technologies' assets including the Hooyman® extendable tree saw line and associated patent rights.

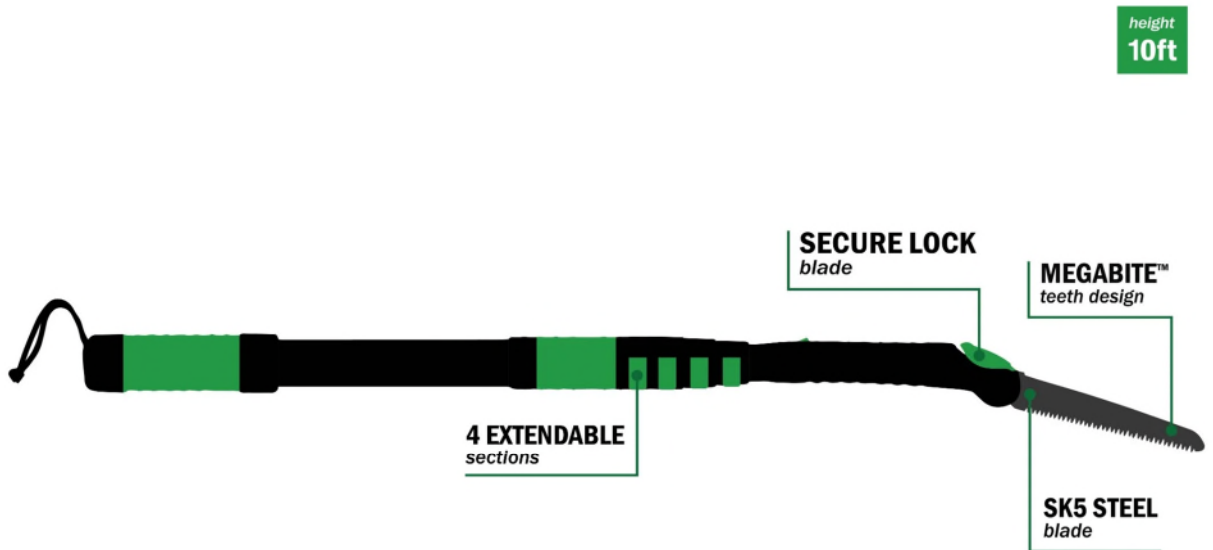
13. A true and accurate image of an example of AOB's Hooyman® extendable tree saw is provided below:



In the above image, the Hooyman® extendable tree saw is shown in three configurations. At top,

the folding hand saw is shown unfolded and disconnected from the extendable pole for use as a hand saw. At middle, the hand saw is shown unfolded and connected to the extendable pole for use as a pole saw. The saw and extendable pole feature connection components configured to form a robust connection to permit the saw to be used on the end of the extendable pole as a rugged pole saw. At bottom, the hand saw is shown folded and in a compact stowed configuration on the retracted pole.

14. A true and accurate image of another example of AOB's Hooyman® extendable tree saw with product feature labeling is provided below:



15. On October 27, 2006, AOB's predecessors in owning the Hooyman patent rights filed a provisional U.S. patent application teaching the innovative technology incorporated in the Hooyman® extendable tree saw.

16. On March 15, 2017, Battenfeld Technologies filed a nonprovisional patent application claiming priority to the original Hooyman® extendable tree saw provisional patent application.
17. The patent was granted and issued on September 15, 2020 as U.S. Patent No. 10,772,261 (the "'261 Patent"). The '261 Patent is also referred to as the "Asserted Patent."
18. This patented technology was a game-changer originally for Hooyman Saws, and later for Battenfeld Technologies. The innovation encompassed by the '261 Patent was a material part of Battenfeld Technologies' desire to acquire the Hooyman® extendable tree saw product line and brand.
19. AOB is the current owner of the '261 Patent and all associated rights of exclusivity. The patented technology is a highly valued asset for AOB and differentiates the Hooyman® extendable saws from the competition.
20. AOB's position is now threatened by the presence of Defendant's infringing products on the market.
21. Defendant Wicked Tree has infringed the Asserted Patent with its "Accused Products" described here. Wicked Tree's Accused Products include at least the "Wicked Tough Pole Saw" and the "Wicked Ultra Light Pole Saw".
22. True and accurate images of the Wicked Tough Pole Saw appear below:





23. True and accurate images of the Wicked Tough Ultra Light Pole Saw appear below:





24. Without the permission or authorization of AOB, Defendant Wicked Tree has infringed AOB's Hooyman® extendable tree saw Asserted Patent by manufacturing, distributing, and selling its infringing Accused Products.

25. Upon information and belief, AOB has lost and is losing customers and has experienced incalculable erosion to its goodwill and reputation. If Defendant Wicked tree is allowed to continue marketing and promoting its Accused Products, then AOB will continue to suffer

irreparable harm, including loss of sales, market share, profit and goodwill. In short, AOB's innovative Hooyman® extendable tree saw product line, market success and accompanying patent rights are deeply threatened.

26. To eliminate further infringement, AOB brings this action for patent infringement.

NATURE OF THE ACTION

27. This action seeks damages and permanent injunctive relief for Defendant Wicked Tree's acts of making, using, selling, offering for sale and/or importing its Accused Products that infringe the Asserted Patent.

THE PARTIES

28. AOB is a Missouri corporation with its principal place of business at 1800 N. Route Z A, Columbia, MO 65202.

29. Upon information and belief, Outdoor Product Innovations, Inc. d/b/a/ Wicked Tree Gear is an Ohio corporation with its principal place of business at 177 Reaser Court, Elyria, OH 44035.

30. Upon information and belief, on or about November 8, 2022, Wicked Tree changed its name from Outdoor Product Innovations, Inc. to DBR Finance, Inc.

31. Upon information and belief, the Accused Products have been and are sold through Wicked Tree's website identifying the selling party as "Wicked Tree Gear Division of Outdoor Product Innovations, Inc. 177 Reaser Court, Elyria, OH 44035."

32. Upon information and belief, it is not clear that Defendant currently operates this website.

JURISDICTION AND VENUE

33. This action arises under the United States patent laws, 35 U.S.C. § 101 *et seq.*, including 35 U.S.C. § 271, *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and § 1338(a).
34. This Court has personal jurisdiction over Wicked Tree because, upon information and belief, Wicked Tree resides in the State of Ohio, incorporated or organized under the laws of this State.
35. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b). Wicked Tree resides in this district.

THE '261 PATENT

36. U.S. Patent Number 10,772,261 (the "'261 Patent") is entitled "Extendable Saw." The '261 Patent was duly and legally issued on September 15, 2020 by the United States Patent and Trademark Office.
37. A true and correct copy of the '261 Patent, including a copy of the March 2, 2021 Certificate of Correction, is attached to this Complaint as Exhibit A.
38. AOB is the owner and assignee of the '261 Patent and possesses all rights of recovery under the '261 Patent.
39. The '261 Patent has not expired and is in full force and effect.
40. The '261 Patent claims are valid and enforceable.
41. The Abstract of the '261 Patent states: "... an extendable folding saw that is lightweight and compact when retracted yet rigid when extended. In one embodiment, the extendable folding saw can have a folding saw and a removably attached extension. The folding saw can have a grip and a pivotally attached saw. The extension can comprise several members

that are compactable to a length not much greater than the length of the longest individual member. The members of the extension can have a generally I shaped profile. The extension rod can be attached to the folding saw in a snap-fitting manner for use. A retracted folding saw can be snapped side-by-side to a retracted to extension rod for storage. "

DEFENDANT'S KNOWLEDGE OF AOB'S PATENT RIGHTS

42. AOB complies with the marking requirements of 35 U.S.C. § 287 related to its products under the Asserted Patent including by way of its virtual patent marking website at <https://www.aob.com/patents/>.
43. AOB is a well-known competitive manufacturer of branded outdoor products and equipment.
44. Defendant Wicked Tree is well aware of AOB's patent rights in the Hooyman® extendable tree saw.
45. In April 2018, Battenfeld Technologies informed Defendant Wicked Tree by letter that it was infringing Battenfeld Technologies' U.S. Patent No. 9,643,266, (the "'266 Patent"), a patent in the same patent family as the Asserted Patent. The letter demanded that Wicked Tree cease and desist from any further manufacture, use, import, sale, or offer for sale of the products infringing AOB's patent rights.
46. On May 1, 2019, Battenfeld and Wicked Tree entered into a "Settlement Agreement". The terms of this Settlement Agreement are confidential.
47. On information and belief, Wicked Tree ceased selling the specific products accused of infringing the '266 Patent (the "Previously Allegedly Infringing Products").

48. On information and belief, Wicked Tree entered into a deliberate redevelopment process to develop new products specifically designed to dodge the scope of the '266 Patent. This development effort resulted in the Accused Products.
49. On information and belief, at least as early as January 2019, Wicked Tree was advertising one or more of the Accused Products for sale. Sales continued into 2020 and to the present date.
50. On information and belief, given Wicked Tree's history with Battenfeld Technologies and the '266 Patent, it is reasonable to infer that Wicked Tree had actual knowledge of the related '261 Patent or should have prior to September 2022.
51. On September 21, 2022, AOB filed its Complaint in this action specifically identifying Wicked Tree's infringement of the '266 patent.
52. On September 22, 2022, AOB provided notice of AOB's complaint to Wicked Tree's outside counsel.
53. On September 22, 2022, AOB's outside counsel acknowledged receipt of the notice.
54. Subsequent to September 22, 2022, Wicked Tree sold the Accused Products.

DEFENDANT'S ACCUSED PRODUCTS

55. Defendant's Accused Products are shown and described above.
56. Upon information and belief, Defendant's Accused Products were designed to compete in the market with AOB's Hooyman® extendable tree saws.
57. Upon information and belief, Defendant's efforts were directly targeted to take market share from AOB. Defendant Wicked Tree is promoting its Accused Products to the same retailers, distributors, and consumers served by AOB, including marketing the Accused

Products at multiple industry trade shows attended by AOB. Defendant's Accused Products were aimed at displacing AOB's Hooyman® extendable tree saws in the market in light of the few market participants and niche nature of the market. Any sale by Defendant of the Accused Products likely displaced a sale of AOB's patented product.

COUNT 1
INFRINGEMENT OF U.S. PATENT NO. 10,772,261

58. AOB incorporates by reference paragraphs 1-57 of this Complaint as though fully set forth here.
59. Defendant, without license or authorization to do so, has infringed one or more claims of the '261 Patent, literally or under the doctrine of equivalents, one or more claims the '261 Patent by making, using, selling, offering for sale, and/or importing the Accused Products within the United States, in violation of 35 U.S.C. § 271(a).
60. Defendant's Accused Products infringe the '261 Patent. For example, Defendant's Accused Products infringe at least claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17 and 18 of the '261 Patent. *See Exhibit B* (claim charts).
61. Defendant knows about AOB's '266 Patent, and on information and belief, at all relevant times has been aware of and knew of its infringement of the '261 Patent, or at the very least has been willfully blind to infringing the '261 Patent, and certainly has known of the infringement since September 22, 2022.
62. Defendants' infringement of AOB's rights will continue to damage AOB, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

JURY DEMAND

63. AOB hereby requests a trial by jury on all issues properly heard by a jury pursuant to the Seventh Amendment of the United States Constitution.

PRAAYER FOR RELIEF

64. AOB respectfully requests that the Court find in its favor and against the Defendant, and that the Court grant AOB the following relief:

- a. A judgment in favor of AOB that Defendant Wicked Tree infringed one or more claims of the '261 Patent;
- b. A permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringing, inducing the infringement of, or contributing to the infringement of the '261 Patent, or such other equitable relief the Court determines is warranted;
- c. An award to AOB of damages adequate to compensate AOB for the Defendant's acts of infringement together with pre-judgment and post-judgment interest pursuant to 35 U.S.C. § 284;
- d. That the Court find Defendant's acts of infringement willful and award treble damages for such willful infringement pursuant to 35 U.S.C. § 284;
- e. That the Court declare this to be an exceptional case and award AOB its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285;
and
- f. Any further relief that the Court deems just and proper.

Date: January 23, 2023

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFF
AOB PRODUCTS COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

By: /Joshua A. Friedman/

Attorney for Plaintiff