

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

ZPE LICENSING INC.,

Plaintiff,

v.

ZZPERFORMANCE LLC and UZOMA
IWUAGWU

Defendants.

Case No.

Hon.

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff ZPE Licensing Inc. (“ZPE” or “Plaintiff”) hereby files this Complaint, demands a jury trial, and alleges the following against Defendants ZZPerformance LLC and Uzoma Iwagu (collectively, “Defendants”):

PARTIES

1. ZPE is a corporation organized and existing under the laws of the State of California with its principal place of business located Temecula, California.
2. On information and belief, Defendant ZZPerformance LLC is a business of unknown origin and legal status that has its principal place of business in Wyoming, Michigan.
3. On information and belief, Defendant Uzoma Iwagu is an individual residing in this District and is a principle of Defendant ZZPerformance LLC.

JURISDICTION AND VENUE

4. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 et seq., including 35 U.S.C. § 271, which gives rise to the remedies specified under 35 U.S.C. §§ 281 and 283-285.

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. On information and belief, Defendants' business is primarily conducted in this judicial district, including in or near Grand Rapids, Michigan.

7. This Court has personal jurisdiction over Defendants.

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

THE PATENT-IN-SUIT

9. On January 13, 2015, the United States Patent and Trademark Office ("PTO") duly and legally issued U.S. Patent No. 8,931,156 (the "'156 patent"), entitled "Puller for Pully of Supercharger." A true and accurate copy of the '156 patent is attached hereto as Exhibit A. ZPE is the owner by assignment of the '156 patent.

BACKGROUND

10. ZPE is an established, market leader in providing engineering solutions for the automotive and machinery industries. ZPE success is due in no small part to

the investment that it has made in product development. ZPE's efforts have resulted in a substantial intellectual property portfolio that includes numerous valuable patents.

11. ZPE has invested enormous time and money into developing revolutionary devices for use in a wide range of applications. These devices include, but are certainly not limited to, instrumentalities for removing pulleys from superchargers. This and other technology are the subject of a family of patents assigned to ZPE, including but not limited to the '156 patent.

12. Pulleys are difficult to remove without significant labor and expense. Most often, automobiles are designed with tight spacing and removing pulleys often requires the removal of a number of other parts. The patented pulley puller avoids the these and other problems associated with prior art devices.

13. Defendants sell aftermarket parts for vehicles. Defendants' acts of infringement include, but are not limited to, manufacturing, distributing and selling the ZZP Supercharger Pulley Puller ("Accused Instrumentalities"). The Accused Instrumentalities include but is not limited to the products sold on the following webpages: <https://zzperformance.com/products/supercharger-pulley-puller> and <https://www.ebay.com/itm/111012917177>.

14. The Accused Instrumentalities embody ZPE's patented invention.

15. ZPE has put Defendants on notice of the ‘156 patent. ZPE has repeatedly sought to bring Defendants into compliance with the Patent Act without resorting to a formal action. Without limitation, on or about June 16, 2020, counsel for ZPE sent Defendants a cease and desist letter that identifies the ‘156 patent and the infringing Accused Instrumentalities. Unfortunately, Defendants have repeatedly refused to acknowledge ZPE’s intellectual property rights and have continued to, on information and belief, knowingly and willfully infringe the ‘156 patent. ZPE was therefore left with no choice but to bring this action.

CLAIM ONE – INFRINGEMENT OF ‘156 PATENT

16. ZPE incorporates by reference herein all of the preceding allegations.

17. Defendants manufacture, distribute and sell the Accused Instrumentalities in the United States.

18. Defendants have made, used, sold, offered for sale, and/or imported into the United States, and continue to make, use, sell, offer for sale, and/or import into the United States, the Accused Instrumentalities. The Accused Instrumentalities infringe the ‘156 patent including, without limitation, claims 2 and 8.

19. The Accused Instrumentalities comprise a puller for pulleys with a distal plate with an opening large enough to receive the shaft of a supercharger.

20. The Accused Instrumentalities further comprise a puller where the opening of the distal plate is smaller than the distal end of the pulley.

21. The Accused Instrumentalities further comprise a distal plate with three attachment points about a central axis.

22. The Accused Instrumentalities further comprise a proximal plate with three attachment points about a central axis that are aligned with the three attachment points of the distal plate.

23. The Accused Instrumentalities further comprise three frame members attached to the distal plate and the proximate plate.

24. The Accused Instrumentalities further comprise a push rod threadably engaged to the hole of the proximal plate.

25. The Accused Instrumentalities further comprise a push rod having a wrench engaging portion for rotating the push rod and a distal portion sized and configured to engage a proximal end of the shaft of a super charger.

26. The Accused Instrumentalities further comprise a push rod which, when rotated clockwise, traverses the distal portion of the push rod into engagement with the proximal end of the shaft of the supercharger.

27. The Accused Instrumentalities further comprise a distal portion of the push rod that is independently rotatable with respect to the wrench engaging portion.

28. Defendants are on notice and have knowledge of the '156 patent.

29. Defendants knowingly induce their customers to use the Accused Instrumentalities in a manner that infringes the '156 patent. Without limitation,

Defendants knowingly induce their customers to insert the pulley between the proximal and distal plates of the Accused Instrumentalities, to insert into the opening of a distal plate of the Accused Instrumentality the shaft and a portion of the super charger where the shaft is mounted, to rotate a push rod attached to a proximal plate of the puller, to engage a distal portion of the push rod with a proximal end of the shaft and to push the pulley off of the shaft with the distal plate.

30. On information and belief, Defendants have themselves engaged in the aforementioned infringing acts.

31. On information and belief, Defendants knowingly induce their customers to engage in the aforementioned infringing acts with a specific intent to encourage their customers to infringe the '156 patent.

32. There is no other reasonable use for the Accused Instrumentality except for the method claimed in the '156 patent.

33. On information and belief, Defendants know that their Accused Instrumentalities were designed to function in a manner claimed by the '156 patent.

34. The Accused Instrumentalities are not staple goods, have no non-infringing uses, and a material part of the process claimed by the '156 patent.

35. Defendants have had knowledge, and/or are willfully blind to the fact, that they are infringing the '156 patent and that their customers are infringing the '156 patent.

36. Unless and until enjoined by this Court, Defendants will continue to infringe the ‘156 patent. Defendants’ infringing acts are causing and will continue to cause ZPE irreparable harm, for which there is no adequate remedy at law. Under 35 U.S.C. § 283, ZPE is entitled to a permanent injunction against further infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in favor of Plaintiff and prays that the Court grant the following relief to Plaintiff:

(a) A judgment that Defendants directly and/or indirectly infringe the ‘156 patent;

(b) An order permanently enjoining Defendants, their affiliates and subsidiaries, and each of their officers, agents, servants and employees and those acting in privity or concert with them, from making, offering to sell, selling, using, or importing into the United States products made by a process that infringes any of the claims of the ‘156 patent; using or performing methods claimed in any of the claims of the ‘156 patent; inducing others to use and perform methods that infringe any claim of the ‘156 patent; inducing others to make, offer, sell, use or import into the United States articles made by a process that infringes any claim of the ‘156 patent; contributing to others using and performing methods that infringe any claim of the ‘156 patent; and contributing to others making, offering, selling, using or

importing into the United States articles made by a process that infringes any claim of the '156 patent, until after the expiration of the '156 patent, including any extensions and/or additional periods of exclusivity to which Plaintiff is or becomes entitled;

(c) An order awarding damages under 35 U.S.C. § 284 in an amount sufficient to compensate Plaintiff for its damages arising from infringement by Defendants, including, but not limited to, lost profits and/or a reasonable royalty, together with pre-judgment and post-judgment interest, and costs;

(d) A judgment and order holding that Defendants' infringement was willful, malicious, in bad faith, deliberate, consciously wrongful and/or flagrant and awarding Plaintiff enhanced treble damages under 35 U.S.C. § 284 due to Defendants' willful infringement of the '156 patent;

(e) An accounting and/or supplemental damages for all damages occurring after any discovery cutoff and through the Court's decision regarding the imposition of a permanent injunction;

(f) A judgment declaring that this case is exceptional and awarding Plaintiff its reasonable costs and attorneys' fees pursuant to 35 U.S.C. § 285;

(g) Such further and other relief as this Court deems proper and just.

JURY DEMAND

In accordance with Rule 38 of the Federal Rules of Civil Procedure, Plaintiff respectfully demands a jury trial of all issues triable to a jury in this action.

Respectfully submitted,

BUTZEL LONG

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