

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS

|                           |   |                        |
|---------------------------|---|------------------------|
| PRECISION PRODUCTS, INC., | ) |                        |
|                           | ) |                        |
| <i>Plaintiff,</i>         | ) | C.A. No. 3:22-cv-03179 |
|                           | ) |                        |
| v.                        | ) |                        |
|                           | ) |                        |
| HARPER TRUCKS, INC.,      | ) | DEMAND FOR JURY TRIAL  |
|                           | ) |                        |
| <i>Defendant.</i>         | ) |                        |
|                           | ) |                        |

**FIRST AMENDED COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiff Precision Products, Inc. (“Plaintiff” or “Precision Products”), through its undersigned counsel, hereby submits this First Amended Complaint for Declaratory Judgment against Defendant Harper Trucks, Inc. (“Defendant” or “Harper”), pursuant to Fed. R. Civ. P. 15(a)(1) as a matter of right, as follows:

**NATURE OF THE SUIT**

1. This is an action for a declaratory judgment arising under the patent laws of the United States, Title 35 of the United States Code. Precision Products seeks declaratory judgment that it does not infringe U.S. Patent No. 10,864,933 entitled “Four Position Hand Truck” (“’933 Patent”), literally or under the doctrine of equivalents. A copy of the ’933 Patent is attached as **Exhibit 1**, which is incorporated by reference herein.

2. This action arises from a real and immediate controversy between Precision Products and Harper regarding whether Precision Products infringes any valid claim of the '933 Patent.

### **THE PARTIES**

3. Plaintiff Precision Products, Inc. is a Delaware corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 316 Limit Street, Lincoln, Illinois 62656. Precision Products is, and at all relevant times was, authorized to transact business in the State of Illinois.

4. Upon information and belief, Defendant Harper Trucks, Inc. is a Kansas corporation with its principal place of business at 1522 South Florence Street, Wichita, Kansas 67209.

5. Upon information and belief, Harper is the owner by assignment of all rights, title, and interest in and under the '933 Patent.

### **JURISDICTION AND VENUE**

6. This action arises under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., and under the patent laws of the United States, Title 35 of the United States Code.

7. This Court has subject matter jurisdiction over the claims alleged in this action pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201 because this action involves

claims arising under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*, and under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

**8.** Upon information and belief, Harper is subject to personal jurisdiction in this Court because Harper engaged in actions in this district that form the basis of Precision Products' declaratory action against Harper, namely, the allegation of patent infringement by a product manufactured by Precision Products in Illinois. Harper's actions have created a real, live, immediate and justiciable case or controversy between Precision Products and Harper.

**9.** Upon information and belief, Harper is subject to personal jurisdiction because Harper has constitutionally sufficient contacts with Illinois so as to make personal jurisdiction proper in this Court. In particular, upon information and belief, Harper actively seeks to sell its products to residents of Illinois and this judicial district, and maintains a website that offers for sale products made by Harper through authorized distributors that are made available to residents of Illinois and this judicial district.

**10.** Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400 because this is the judicial district in which a substantial part of the events giving rise to the claim alleged in this First Amended Complaint occurred and Harper is subject to personal jurisdiction in this judicial district based on, among other things its business transactions within this District.

11. For these reasons and the reasons set forth below, a substantial controversy exists between the parties, which is of sufficient immediacy and reality to warrant declaratory relief.

**FACTS AND ALLEGATIONS GIVING RISE TO THIS ACTION**

12. On July 14, 2022, Harper sent Gleason Industrial Products, Inc. (“Gleason Industrial”) a cease and desist letter regarding alleged infringement of the ’933 Patent.

13. On July 18, 2022, Gleason Industrial sent a letter to Harper informing it that Gleason Industrial is in receipt of the July 14<sup>th</sup> cease and desist letter, and notified that Gleason Industrial is undertaking an investigation and analysis of the patent infringement allegations contained in the July 14<sup>th</sup> letter.

14. On July 19, 2022, Harper filed a lawsuit in the Northern District of Indiana against Gleason Industrial accusing Gleason Industrial of infringing the ’933 Patent. *See Harper Trucks Inc. v. Gleason Industrial Products, Inc.*, Civil Action No. 3:22-cv-00566-DRL-MGG (N.D. Ind.) (“ND Ind. Litigation”). A copy of the Complaint in the ND Ind. Litigation (D.I. 1) is attached as **Exhibit 2**, which is incorporated by reference herein.

15. In the ND Ind. Litigation, Harper identifies the accused product that infringes the ’933 Patent as the “Model No. 79441” hand truck (hereinafter “Model No. 79441 hand truck” or “accused product”). Exhibit 2, ¶ 17. A copy of Harper’s

exemplary claim chart of Claim 4 of the '933 Patent in the ND Ind. Litigation (D.I. 1–2) is attached as **Exhibit 3**, which is incorporated by reference herein.

**16.** Plaintiff Precision Products manufactures and sells the Model No. 79441 hand truck.

**17.** The accused product, Model No. 79441 hand truck, is not manufactured or sold by Gleason Industrial Products, Inc.

**18.** Harper's allegation of infringement of the '933 Patent related to the Model No. 79441 hand truck places a cloud over Precision Products' products and relationships with potential distributors and customers. As outlined below, Precision Products' does not infringe, either directly or indirectly, the '933 Patent.

**FACTS RELATING TO NON-INFRINGEMENT**

**19.** The '933 Patent generally discloses a multi-position hand truck.

**20.** The '933 Patent discloses an apparatus with a head assembly including a first releasable lock for selectively unlocking the handle assembly from the frame assembly to allow the handle assembly to rotate with respect to the frame assembly, and a separate second releasable lock for selectively unlocking the handle assembly from the frame assembly to allow the handle assembly to extend or retract with respect to the frame assembly.

**21.** Precision Products does not infringe independent Claim 1 of the '933 Patent for at least the reason that the Model No. 79441 hand truck does not have both a handle rotation locking pin and a slide locking pin as recited in Claim 1.

**22.** Precision Products further does not infringe independent Claim 1 of the '933 Patent under the doctrine of equivalents for at least the reason that there is no equivalent structure to the handle rotation locking pin and the slide locking pin as recited in Claim 1 in the Model No. 79441 hand truck that performs the claimed functions in the same manner.

**23.** Precision Products does not infringe independent Claim 4 of the '933 Patent for at least the reason that the Model No. 79441 hand truck does not have both a first releasable lock and a second releasable lock as recited in Claim 4.

**24.** Precision Products further does not infringe independent Claim 4 of the '933 Patent under the doctrine of equivalents for at least the reason that there is no equivalent structure to the first releasable lock and second releasable lock as recited in Claim 4 in the Model No. 79441 hand truck that performs the claimed functions in the same manner.

**25.** Precision Products does not infringe independent Claim 9 of the '933 Patent for at least the reason that the Model No. 79441 hand truck does not have both a first lock and a second lock as recited in Claim 9.

26. Precision Products further does not infringe independent Claim 9 of the '933 Patent under the doctrine of equivalents for at least the reason that there is no equivalent structure to the first lock and the second lock as recited in Claim 9 in the Model No. 79441 hand truck that performs the claimed functions in the same manner.

**COUNT I**  
**REQUEST FOR DECLARATORY JUDGMENT OF**  
**NON-INFRINGEMENT OF THE '933 PATENT**

27. Precision Products incorporates and realleges each allegation contained in prior paragraphs of this First Amended Complaint, as though fully set forth herein.

28. There is an actual and justiciable controversy between Precision Products and Harper concerning infringement of the '933 Patent.

29. Precision Products has not infringed and does not infringe directly, contributorily, or by inducement, either literally or under the doctrine of equivalents, any valid claim of the '933 Patent.

30. Precision Products' Model No. 79441 hand truck does not infringe the '933 Patent because multiple limitations of the claims in the '933 Patent are missing both literally and under the doctrine of equivalents from the accused product as set forth herein.

**31.** Precision Products does not directly infringe the claims of the '933 Patent by manufacturing, using, selling, offering to sell, and/or importing the Model No. 79441 hand truck for at least the reasons set forth herein.

**32.** Precision Products has not actively induced and does not actively induce infringement of the '933 Patent under 35 U.S.C. § 271(b) by selling and/or offering to sell the Model No. 79441 hand truck with the knowledge and intent that such sale or offer to sell will induce third parties to infringe the claims of the '933 Patent for at least the reasons set forth above with respect to no underlying direct infringement of the claims of the '933 Patent.

**33.** Precision Products has not actively contributed to and does not actively contribute to the infringement of the '933 Patent under 35 U.S.C. § 271(c) by selling and/or offering to sell the Model No. 79441 hand truck to third parties knowing that such accused product constitutes a material part of the invention of the '933 Patent for at least the reasons set forth above with respect to no underlying direct infringement of the claims of the '933 Patent.

**PRAYER OF RELIEF**

**WHEREFORE**, Plaintiff respectfully requests that this Court enter a final judgment in its favor and against Defendant as follows:

A. A declaratory judgment that Precision Products has not infringed and does not infringe, directly or indirectly, any of the claims of the '933 Patent;



B. Find this to be an exceptional case under 35 U.S.C. § 285, and award Precision Products its costs and reasonable attorneys' fees; and

C. Award Precision Products such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Precision Products hereby demands a trial by jury on all issues so triable.

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*Attorneys for Plaintiff Precision  
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Dated: October 4, 2022