

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

MASCHIO GASPARDO S.p.A.

Plaintiff,

v.

PRECISION PLANTING LLC,

Defendant.

C.A. No. [_____]

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Maschio Gaspardo S.p.A. (“Plaintiff”), for its Complaint against Defendant Precision Planting, LLC (“Defendant”) alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 et seq.

THE PARTIES

2. Plaintiff is an entity organized under the laws of Italy with a principal place of business at N. 73, Via Marcello, 35011 Campodarsego (PD) Italy.

3. Plaintiff is an international leader in the production of equipment for tillage, seeding and planting, fertilization, crop protection, green maintenance and haymaking, and has been since 1964.

4. But Plaintiff’s roots in quality seeding equipment and haymaking equipment reach back to the 1800’s. In 1993, Plaintiff acquired Gaspardo Seminatrici S.p.A., an historic company founded in 1834 and known all over the world for the precision and reliability of its seeders. In 2014 it acquired Feraboli, also founded in the 1800s, specializing in the design and production of round balers, fundamental equipment in the haymaking sector.

5. Today, Plaintiff has 1,900 employees worldwide, eight production plants and twelve commercial branches, all producing 70,000 pieces of equipment as of 2021.

6. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of Delaware with a principal place of business at 23207 Townline Road, Trenton, IL 61568.

7. Defendant maintains a registered agent for service of process in Delaware at Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. Upon information and belief, Defendant sells and offers to sell products and services throughout the United States, including in this judicial district, and introduces products and services that enter into the stream of commerce and that incorporate infringing technology knowing that they would be sold in this judicial district and elsewhere in the United States.

JURISDICTION AND VENUE

8. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

9. This court has subject matter jurisdiction under 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patent Law).

10. This Court has personal jurisdiction over Defendant, because Defendant has sufficient minimum contacts within the State of Delaware and this District, pursuant to due process and/or the Del. Code. Ann. Tit. 3, § 3104, as Defendant has purposefully availed itself of the privileges of conducting business in the State of Delaware by regularly conducting and soliciting business within the State of Delaware and within this District, and because Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Delaware and this District. Further, this Court has personal jurisdiction over Defendant, because

it is incorporated in the State of Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

11. Venue is proper in this judicial district under 28 U.S.C. § 1400(b). Defendant is organized under the laws of the State of Delaware and therefore resides in the District. In addition, on information and belief, Defendant has committed acts of infringement in this District.

ACCUSED INSTRUMENTALITIES

12. Defendant makes, uses sells and offers for sale, provides and causes to be used, now and within the past six years, the vSet, vSet Select, vSet-2, and vDrive, among other similar products. (“Accused Instrumentalities”).

PATENTS IN SUIT

13. Plaintiff is the owner by assignment of U.S. Patent No 8,770,121 (“the ’121 patent”). The ’121 patent was assigned to Plaintiff on July 23, 2012.

14. Plaintiff is the rightful owner of the ’121 patent and holds the entire right, title and interest in the ’121 patent.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,770,121

15. The allegations set forth in the foregoing paragraphs 1 through 14 are incorporated into this Claim for Relief.

16. On July 8, 2014, the ’121 patent entitled “Seed Distribution Element for Precision Seed Drills, Seed Drill Including Said Element” was duly and legally issued from U.S. Patent Application No. 13/521,896 with PCT filing on November 10, 2011. A true and correct copy of the ’121 patent is attached as Exhibit 1.

17. Plaintiff is the assignee and owner of the right, title and interests in and to the ’121 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

18. Upon information and belief, Defendant has and continues to directly infringe at least claim 1 of the '121 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing to be used the Accused Instrumentality that infringe the patented methods as explained in attached Exhibit 2.

19. Defendant was made aware of the '121 patent and its infringement thereof by correspondence on October 22, 2014.

20. Since October 22, 2014, when it first was made aware of the '121 patent, Defendant's infringement has been, and continues to be willful.

21. As just one example of Defendant's willful infringement, Defendant has advertised the compatibility of its infringing vSet devices with seed meters manufactured by Plaintiff and provided instructions for retrofitting Plaintiff's seed meters with infringing vSet devices since receiving notice of the '121 patent.

22. Upon information and belief, the Accused Instrumentality are used, marketed, provided to, and/or used by or for the Defendant's partners, clients, and customers across the country and in this District.

23. Upon information and belief, Defendant has induced and continues to induce others to infringe at least claim 1 of the '121 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendant's partners, clients and customers, whose use of the Accused Instrumentality constitutes direct infringement of at least claim 1 of the '121 patent.

24. In particular, the Defendant's actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentality and providing instruction materials and services regarding the Accused Instrumentality.

25. Any party, including Defendant's partners, clients and customers using the Accused Instrumentalities necessarily infringes the '121 patent. Defendant thus induces others to infringe the '121 patent. Defendant has knowingly induced infringement since at least October 22, 2014, when it first was made aware of the '121 patent.

26. Upon information and belief, the Defendant is liable as a contributory infringer of the '121 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentality that infringe the patented methods, to be especially made or adapted for use in an infringement of the '121 patent. Each of the Accused Instrumentality is a material component for use in practicing the '121 patent and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

27. Plaintiff has been harmed by Defendant's Infringing activities.

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment for itself and against Defendant as follows:

- A. An adjudication that Defendant has infringed the '121 patent;
- B. An award of damages to be paid by Defendant adequate to compensate Plaintiff for Defendant's past infringement of the '121 patent and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and

D. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

Dated: October 24, 2022

/s/ Timothy Devlin

Timothy Devlin (No. 4241)

Neil A. Benchell (to be admitted *pro hac vice*)

Peter A. Mazur (No. 6732)

tdevlin@devlinlawfirm.com

nbenchell@devlinlawfirm.com

pmazur@devlinlawfirm.com

DEVLIN LAW FIRM LLC

1526 Gilpin Avenue

Wilmington, DE 19806

Telephone: (302)-449-9010

Attorneys for Plaintiff

MASCHIO GASPARDO S.p.A.