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*Attorneys for Plaintiffs*

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

_____	)	
Avus Holdings, LLC and	)	
Avus Design, Inc.	)	Case No. 1:23-cv-00023
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
DMoose Enterprises Inc.,	)	
	)	
Defendant.	)	
_____		

**COMPLAINT**

Plaintiffs Avus Holdings, LLC and Avus Design, Inc. (collectively “Avus” or “Plaintiffs”), by and through its attorneys, file their Complaint for Patent Infringement against Defendant DMoose Enterprises Inc. (“DMoose” or “Defendant”), alleging as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement under the patent laws of the United States, title 35 United States Code. Avus seeks remedies for DMoose’s infringement of Avus’s U.S. Patent No. 7,513,856 (“the ’856 Patent”) as outlined below.

**PARTIES**

2. Avus Holdings, LLC is a limited liability company organized and existing under the laws of California having its principal place of business in Santa Barbara, California 93109.

3. Avus Design, Inc. is a company organized and existing under the laws of California having its principal place of business in Santa Barbara, California 93109.

4. Upon information and belief, DMoose is a Wyoming entity with its principal place of business at 30 North Gould Street, Suite 23917, Sheridan, Wyoming 82801.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction of Avus's federal claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over DMoose because a substantial portion of the events giving rise to the claim occurred within this District, the Defendant has committed acts of infringement in and has significant contacts within the District, and is infringing Avus's intellectual property in its product listings targeted at this District and/or are using, selling, or offering to sell the infringing product in this District.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(c)(2) and/or 28 U.S.C. § 1400(b) because DMoose resides in Wyoming and has a regular and established place of business in Wyoming.

### **THE PATENT-IN-SUIT**

8. The '856 Patent, entitled "Weight Plate Retention Collar," was duly and legally issued by the United States Patent and Trademark Office on April 7, 2009. A true and correct copy of the '856 Patent is attached as Exhibit 1.

9. Avus Holdings LLC is the assignee and owner of all right, title and interest in the '856 Patent.

10. Avus Design Inc. is the exclusive licensee of all right, title and interest in the '856 Patent, including the sole, exclusive, and undivided right to sue for infringement and collect

damages for past and future infringement of the '856 Patent. The '856 Patent is valid and enforceable. DMoose has no license or authority under the '856 Patent.

11. The named inventor of the '856 Patent is Dylan Jones (“Jones”).

12. The '856 Patent was filed as U.S. Application No. 11/803,582 (“the '582 Application”). On November 20, 2008, the United States Patent and Trademark Office published the '582 Application as U.S. Publication No. 2008/0287271 (“the '271 Publication”). A true and correct copy of the '271 Publication is attached as Exhibit 2.

### **ACTS GIVING RISE TO THIS ACTION**

13. Avus originally launched its first weight retention collar product in 2006 and has since become the leading weight retention collar seller in the world. Avus sells its product covered by the '856 Patent on various online platforms such as Amazon and its website located at <https://lockjawcollar.com> as well as in popular brick and mortar stores such as Dicks Sporting Goods.

14. Several of Avus’s weight retention collars are covered by the '856 Patent (the “Lock-Jaw Product”) have achieved widespread popularity causing sales to grow steadily and even exponentially, achieving record sales in 2020. Exemplary images of genuine weight retention collars covered by the '856 Patent are shown below:



15. Defendant began selling its product which infringes the '856 Patent online via its Amazon storefront under the name DMoose and on its own website located at <https://www.dmoose.com/products/barbell-clamps>. Exemplary images of Defendant's products infringing the '856 Patent is shown below (the "Accused Product"):



16. On information and belief, DMoose manufactures, previously sold, and continues to offer for sale and to sell, in this judicial district the Accused Product depicted above.

17. On information and belief, DMoose designed the Accused Product after seeing Avus's Lock-Jaw Product.

18. Defendant is aware of Avus and Avus's rights in the '856 Patent at least due to Avus's presence on Amazon, and Avus's website (see, e.g., <https://lockjawcollar.com/pages/counterfeit>), which identifies its patent rights. Avus has also marked products with the '856 Patent as shown below:



19. Further, Defendant is aware of Avus and Avus's rights in the '856 Patent, and Defendant's infringement of the '856 Patent, by way of a letter sent from Plaintiff's counsel dated June 24, 2022. A true and correct copy of the June 24, 2022 letter is attached as Exhibit 3.

20. Despite notice of infringement, DMoose's infringement of the '856 Patent continues.

**COUNT I FOR INFRINGEMENT OF PATENT NO. 7,513,856**

21. Avus hereby re-alleges and incorporates by reference, as if fully set forth herein, the allegations of Paragraphs 1 through 20.

22. On information and belief, DMoose has infringed, either literally or under the doctrine of equivalents, by manufacturing, using, offering to sell, and selling infringing products covered by one or more claims of the '856 Patent pursuant to 35 U.S.C. § 271(a).

23. Claim 1 of the '856 Patent recites, generally, a retention collar for securing weight plates to a barbell comprising an outer frame, a plurality of substantially cylindrical pressure pins attached to the outer frame, a pull bar, and a lever, wherein the lever pulls the pull bar, which causes the pressure pins to close the outer frame around the barbell.

24. As shown in Figure 1, and described in the specification, the outer frame (14) of the retention collar (10) forms an interior space for surrounding a barbell to secure weight plates in place. The retention collar includes substantially cylindrical pressure pins (13) attached to the frame, a pull bar (12) attached to one such pressure pin, and a lever (11) attached to the pull bar.

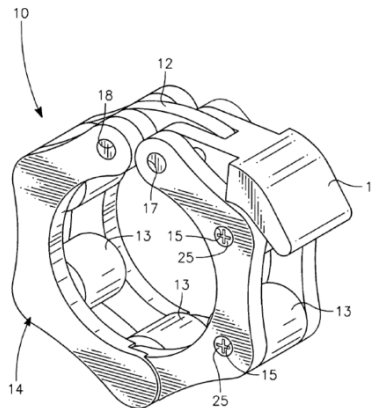
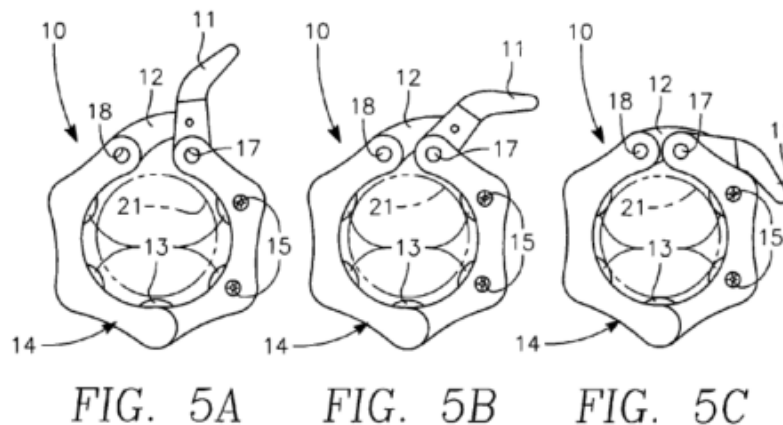
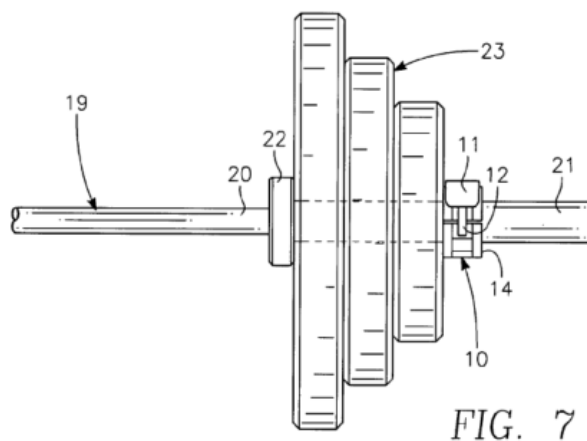


FIG. 1

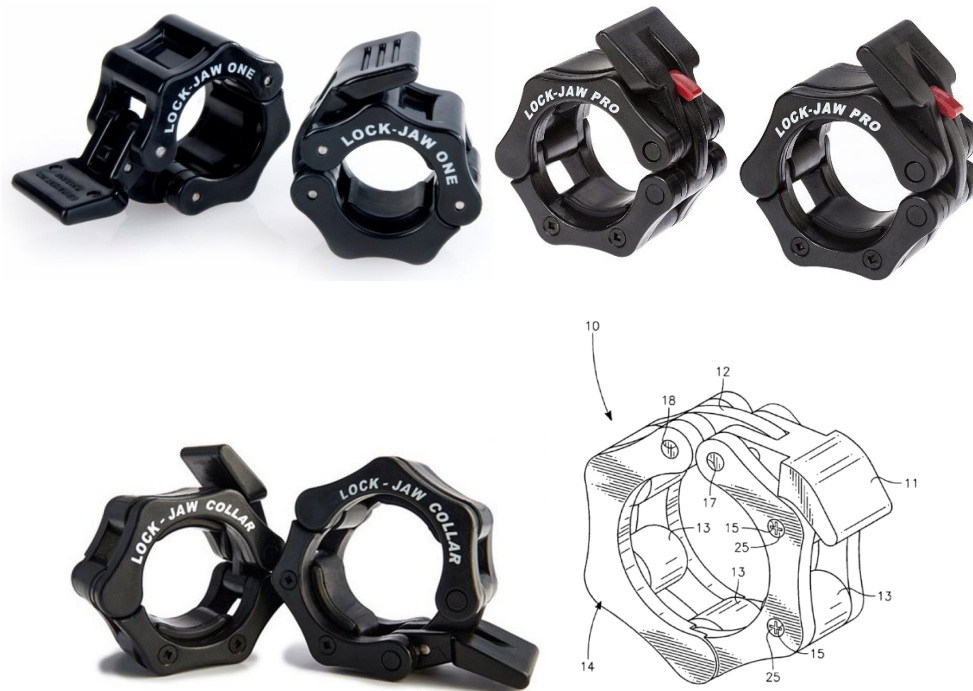
25. When lever (11) is activated, it pulls the pull bar (12), which causes the pressure pins to close the outer frame (14) around the barbell. Figures 5A, 5B, and 5C, below, illustrate the general principles of operation, and operating states, of the claimed retention collar.



26. Figure 5A depicts the retention collar in the fully open position. Figure 5B depicts the retention collar in an intermediate position when the lever is activated, pulling the pull bar, and the pressure pins closing the outer frame. Figure 5C depicts the retention collar in the closed position following the activation of the lever. Figure 7 illustrates the claimed retention collar (10), also in the closed position, this time in the presence of a barbell and weights.



27. Several of Avus's Lock-Jaw Products practice the invention as recited in claim 1 of the '856 Patent.



28. On information and belief, DMoose has manufactured, used, offered to sell, and continues to sell products containing all of the elements and features as described in paragraphs 23-26 such that Defendant's Accused Product infringes at least claim 1 of the '856 Patent, either literally or under the doctrine of equivalents. Defendant's Accused Product includes an outer frame, of a retention collar, which forms an interior space for surrounding a barbell to secure weight plates in place. The retention collar includes substantially cylindrical pressure pins attached to a frame, a pull bar, and a lever that, when pulled, causes the pressure pins to close the outer frame.





29. On information and belief, DMoose's acts were intentional, and DMoose acted with specific intent in manufacturing, using, offering to sell, and continuing to sell products infringing at least one or more claims of the '856 Patent.

30. On information and belief, DMoose knew, should have known, or was willfully blind that its action would induce infringement of at least one or more claims of the '856 Patent by another.

31. Avus has suffered and continues to suffer harm as a result of DMoose's direct infringement of the '856 Patent.

32. Avus has no adequate remedy at law for DMoose's infringement. As a direct and proximate of DMoose's infringement, Avus has suffered and continues to suffer irreparable harm. Unless this Court enjoins DMoose's acts, Avus will continue to suffer irreparable harm.

33. Avus is entitled to injunctive relief in accordance with 35 U.S.C. §§ 271, 281, 283, and 284.

#### **PRAYER FOR RELIEF**

WHEREFORE, Avus respectfully requests the following relief:

- A. Judgment in favor of Avus and against DMoose that DMoose has infringed at least one or more claims of the '856 Patent;
- B. Judgment that infringement of the '856 Patent has been willful;
- C. An award of damages adequate to compensate Avus for DMoose's infringement of the '856 Patent;
- D. An award of damages from issuance of the '856 Patent pursuant to 35 U.S.C. § 154(d);
- E. An award of pre and post-judgment interest, and the taxation of all allowable costs against DMoose;
- F. An award of all other damages permitted by 35 U.S.C. § 284;
- G. A determination that this is an exceptional case and award Avus its costs, expenses, and reasonable attorney's fees pursuant to 35 U.S.C. § 285;
- H. That DMoose account to Avus for their profits and any damages sustained by Avus arising from its acts of infringement;
- I. Judgment in favor of Avus enjoining DMoose from further acts of infringement, induced infringement, and contributory infringement of the '856 Patent;
- J. That, upon Avus's request, all in privity with DMoose and with notice of the injunction, including but not limited to any online marketplace platforms, such as Amazon and domain registrars, domain registries, and web hosts shall:
  - i. cease providing services used by Defendants, currently or in the future, to sell or offer for sale goods which infringe the '856 Patent;
  - ii. cease displaying any advertisements in any form, connected or associated with DMoose which infringe the '856 Patent; and

- iii. disable all links to the marketplace accounts associated with DMoose offering for sale goods which infringe the '856 Patent.
- K. Such other relief as this Court deems just and proper.

DATED: January 31<sup>st</sup>, 2023.

**PLAINTIFFS AVUS HOLDINGS, LLC and  
AVUS DESIGN, INC.**

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