

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

MGP CALIPER COVERS, LLC,

Plaintiff,

V.

ROUGH COUNTRY, LLC,

Defendant.

Case No.

Hon.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, MGP Caliper Covers, LLC (“Plaintiff” or “MGP”), by its undersigned counsel, for its Complaint against Defendant, Rough Country, LLC (“Defendant”) for patent infringement, states as follows:

NATURE OF THE SUIT

1. This is an action for the infringement of MGP’s U.S. Patent No. 9,046,143 (“the ’143 Patent”) arising under the patent laws of the United States, Title 35 of the United States Code.

2. MGP has suffered and continues to suffer damages, including lost profits. Defendant has also been unjustly enriched as a result of its willful and continuing infringement of MGP’s patented caliper cover invention.

THE PARTIES

3. Plaintiff is a limited liability company organized under the laws of Delaware with its principal place of business in the State of Colorado at 333 Centennial Parkway, Suite B, Louisville, CO 80027.

4. On information and belief, Defendant is a limited liability company organized under the laws of Delaware with a regular and established place of business at 2450 Huish Road,

Dyersburg, Tennessee 38024.

5. On information and belief, Defendant's registered agent, through which it can receive service of process, is Cogency Global, Inc., with an address at 992 Davison Drive, Suite B, Nashville, Tennessee 37205.

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, 35 U.S.C. § 101, et seq. This Court's jurisdiction over this action is proper under the following statutes, including 35 U.S.C. § 271, et seq., 28 U.S.C. § 1331 (federal question jurisdiction), and § 1338 (jurisdiction over patent actions).

7. This Court has personal jurisdiction over Defendant because Defendant has purposefully availed itself of the rights and benefits of the laws of the State of Tennessee, having engaged in continuous, systematic, and substantial activities within this State, including marketing and sales of products within this State and this District. Defendant has its mailing address within this State and this District, and Defendant's agent is also located in this State. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed the acts giving rise to MGP's claims for patent infringement within this State and this District.

8. On information and belief, Defendant maintains and operates commercial websites accessible to residents of the State of Tennessee and this District, through which Defendant promotes, offers for sale, and sells the infringing products. Defendant's website, at <https://www.roughcountry.com>, is accessible to consumers in the United States, including those in the State of Tennessee and this judicial District, where Rough Country supplies information about the infringing products that can be purchased and/or used in this judicial District.

9. On information and belief, Defendant has committed acts of infringement in this District and has one or more regular and established places of business within this District under

the language of 28 U.S.C. § 1400(b). Defendant maintains a permanent physical presence within the Western District of Tennessee and conducts business from its 992 Davison Drive, Suite B, Nashville, Tennessee 37205 location.

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 1400(b) because the Defendant has a place of business and conducts business in this District, including: (i) purposefully and voluntarily placing one or more infringing products into the stream of commerce with the expectation that these infringing products will be purchased by consumers in this forum; and (ii) regularly doing or soliciting business and deriving substantial revenue from goods and services to individuals in Tennessee and in this judicial District.

MGP CALIPER COVERS AND THE PATENT-IN-SUIT

11. MGP is an American-based company with a manufacturing facility located in San Diego, California.

12. After years of extensive research, MGP developed a process that used technology from the aerospace and recreation industries to invent and develop high-performance products for automotive enthusiasts.

13. MGP invented and patented its caliper cover products by combining state-of-the-art technologies along with more than 30 years of engineering experience to introduce the highest quality aftermarket caliper cover products that are held to original equipment manufacturer (OEM) standards.

14. MGP's caliper covers are form-fitting to meet factory wheel clearances and fasten securely while remaining easy for consumers and end users to install.

15. MGP engineered and developed its caliper cover products to standards far exceeding normal automotive bolt-on modifications utilizing aerospace-grade aluminum and stainless steel, precision computer controlled machining, hydraulic forming and tungsten inert gas

(TIG) welding.

16. Michael T. Barland is the sole inventor of the '143 Patent and is MGP's President. Mr. Barland is the inventor of four issued United States patents protecting caliper cover inventions.

The '143 Patent

17. The '143 Patent, entitled "Caliper Cover," duly and legally issued on June 2, 2015, from U.S. Patent Application Ser. No. 12/492,130, filed on June 25, 2009, naming Michael T. Barland as the sole inventor. A true and correct copy of the '143 Patent is attached as **Exhibit 1** and is herein incorporated by reference.

18. MGP is the owner and assignee of all rights, title and interest in and to the '143 Patent.

19. An assignment of the '143 Patent from Mr. Barland, the inventor, to Marshall Genuine Products, LLC, a predecessor entity of MGP, is recorded at Reel/Frame 056172/0828.

20. An assignment of the '143 Patent from Marshall Genuine Products, LLC, to MGP is recorded at Reel/Frame 056173/0323.

21. MGP has standing to sue for infringement of the '143 Patent.

GENERAL ALLEGATIONS

22. Defendant has not obtained a license to the '143 Patent.

23. Defendant did not and does not have MGP's authorization to make, use, sell, offer to sell, or import into the U.S. products that practice the technology covered by one or more of the claims of the '143 Patent.

24. Defendant has made, used, sold, offered to sell, and/or imported into the United States products that practice the technology covered by one or more of the claims of the '143 Patent.

25. Defendant has infringed, literally and/or under the doctrine of equivalents, directly,

indirectly, and/or through one or more subsidiaries, agents, representatives, and/or intermediaries, one or more of the claims of the '143 Patent by making, using, selling, offering to sell caliper covers that infringe one or more of the claims of the '143 Patent, including but not limited to caliper covers identified by stock keeping units including, but not limited to: 71100A, 71106A, 71108, 71110, 71119, 71122A, 71140A, 71142A, 71144A, 71146A, 71147A, 71148A, 71149, 71150, 71151, and 71152 (identified in **Exhibits 2 - 17**, respectively) (collectively, “the Accused Products”).

26. Defendant’s customers have directly infringed the '143 Patent by using the Accused Products. Through its website, product documentation, installation instructions, and/or sales and marketing activities, Defendant has solicited, instructed, encouraged, and aided and abetted its customers to purchase and use the Accused Products in an infringing way. A true and correct version of installation instructions provided by Defendant is attached hereto as **Exhibit 18**, the entirety of which is incorporated by reference herein.

27. Defendant has had knowledge of the '143 Patent at least through MGP’s sending of (and Defendant’s receipt of) the cease and desist demand letter to Defendant dated August 19, 2022, which notified Defendant of the '143 Patent, and the Accused Products as infringing the '143 Patent.

28. By receiving such notice of infringement, Defendant obtained a subjective belief that there is a high probability that the Accused Products infringe the '143 Patent.

29. On information and belief, and despite being notified of the infringement, Defendant has continued to infringe the '143 Patent, and induce others to do the same, with knowledge of the applicability of the '143 Patent to the Accused Products, without a license.

30. MGP has been damaged as a result of Defendant’s infringement. Defendant is therefore liable to MGP under 35 U.S.C. § 284 in an amount that adequately compensates MGP

for Defendant's infringement, which is not less than a reasonable royalty, together with interests and costs as fixed by this Court.

31. Defendant's infringing activities, as detailed herein, have been knowing and intentional, egregious, wanton and deliberate in disregard to MGP's rights, justifying this Court in finding the Defendant's infringement to be willful, and awarding enhanced damages under 35 U.S.C. § 284 and the attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

32. Attached hereto and incorporated herein by reference is **Exhibit 19**, which contains a representative claim chart detailing how the Accused Products have infringed at least claim 2 of the '143 Patent.

33. For each count of infringement listed below, MGP incorporates and restates the allegations contained in the preceding paragraphs, including these General Allegations, as if set forth fully in each count of infringement.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 9,046,143

34. MGP incorporates herein the allegations made in paragraphs 1 – 33.

35. Defendant has and continues to directly infringe one or more claims of the '143 Patent, including, for example, claim 2, in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale, and/or importing into the United States infringing products, including, but not limited to, the Accused Products.

36. An exemplary claim chart demonstrating Defendant's infringement of the '143 Patent, as well as Defendant's customers' infringement of the '143, which is induced and contributed by Defendant is attached as **Exhibit 19** and incorporated herein by reference.

37. On information and belief, Defendant has and continues to indirectly infringe the '143 Patent in violation of 35 U.S.C. § 271(b) at least by inducing customers to purchase the

Accused Products and/or by instructing customers in the use of the Accused Products in a way that directly infringes at least claim 2 of the '143 Patent.

38. On information and belief, Defendant has had actual knowledge of the '143 Patent and of its infringement of the '143 Patent through at least MGP's August 19, 2022, notice letter to Defendant.

39. On information and belief, Defendant's actions represent a specific intent to induce infringement of at least claim 2 of the '143 Patent, including through the offer of customer support and installation instructions that direct and encourage its customers to infringe the '143 Patent through the use of the Accused Products.

40. On information and belief, Defendant has and continues to indirectly infringe the '143 Patent in violation of 35 U.S.C. § 271(c) by contributing to the direct infringement of Defendant's customers. Since at least when it learned of the '143 Patent, Defendant has known or should have known that the intended use of the Accused Products by an end user is both patented and infringing.

41. The Accused Products are not staple articles of commerce suitable for substantial non-infringing use. Instead, the Accused Products are especially made and/or adapted for use in infringing the '143 Patent.

42. As a result of Defendant's infringement of the '143 Patent, MGP has suffered and is owed monetary damages adequate to compensate it for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

43. Defendant's infringement has been knowing and intentional, egregious, wanton, and deliberate in disregard of MGP's rights, justifying a finding of willful infringement, enhanced damages under 35 U.S.C. § 284, and attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

DEMAND FOR A JURY TRIAL

44. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, MGP demands a trial by jury on all issues triable of right by a jury.

PRAYER FOR RELIEF

45. MGP respectfully requests this Court enter judgment in its favor and grant the following relief:

- a. A judgment that Defendant has directly and/or indirectly infringed one or more claims of the '143 Patent;
- b. A judgment and order requiring Defendant to pay MGP past and future damages under 35 U.S.C. § 284, including for supplemental damages arising from a continuing post-verdict infringement for the time between trial and entry of the final judgment with an accounting, as needed, as provided by 35 U.S.C. § 284;
- c. A judgment and order that Defendant has willfully infringed the '143 Patent and requiring Defendant to pay MGP enhanced damages under 35 U.S.C. § 284 and attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285;
- d. A judgment and order requiring Defendant to pay MGP pre-judgment and post-judgment interest on the damages award;
- e. A judgment and order requiring Defendant to pay MGP's costs; and
- f. Such other and further relief as the Court may deem just and proper.

Respectfully submitted,

By: /s/ Joshua L. Burgener
Joshua L. Burgener (#29077)
Dickinson Wright, PLLC
424 Church Street, Suite 800
Nashville, TN 37219-2395
Tel: (615) 244-6538
jburgener@dickinsonwright.com

Christopher J. Worrel *pro hac vice motion*
forthcoming
201 W Big Beaver Rd, Ste 500
Troy, MI 48084-4160
Tel: (248) 925-1940

Attorneys for Plaintiff

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