

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

LEUPOLD & STEVENS, INC.)	
)	
Plaintiff,)	
)	Civil No. 4:24-cv-2025
v.)	
)	JURY TRIAL DEMANDED
PRIMARY ARMS, L.L.C.)	
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Leupold & Stevens, Inc. (“Leupold”) brings this Complaint for patent infringement against Defendant Primary Arms, L.L.C. and alleges as follows:

NATURE OF THE ACTION

1. This action is based on the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*
2. This action arises out of Defendant’s making, using, selling, offering to sell, and/or importing optical riflescopes and components thereof (“the Infringing Products”) that violate patents owned by Leupold.

THE PARTIES

3. Leupold is an Oregon corporation with its principal place of business in Beaverton, Oregon. Leupold has developed, designed, and manufactured world-class optics equipment for over 100 years, and is recognized as a leading innovator in the field today. Leupold’s riflescopes, small arms sights, binoculars, and other optics equipment and accessories are sought after the world over for their superior performance, craftsmanship, and value.

4. On information and belief, Defendant Primary Arms, L.L.C. (“Defendant” or “Primary Arms”) is a Texas limited liability company having a principal place of business in Houston, Texas.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has original subject matter jurisdiction over such claims pursuant to at least 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Primary Arms because Primary Arms resides within this district, regularly conducts business within this district, and continues to commit acts of patent infringement in this district including by making, using, offering to sell, and/or selling infringing products within this district.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400 at least because Primary Arms is a Texas entity with its principal place of business in this district, and because a substantial part of the events giving rise to Leupold’s claims have occurred within this district.

FACTUAL BACKGROUND

8. Leupold is a world leader in the design, development, and manufacture of sports optics and precision optical instruments, systems, and methods, including riflescopes for sporting, hunting, marksmanship, military, and law enforcement applications. Leupold’s innovations have been recognized by the United States Patent and Trademark Office (“USPTO”) through the issuance of numerous patents, including the Patents-in-Suit.

9. As detailed herein, certain of Primary Arms’ “GLx” series of riflescopes and similar products infringe Leupold patents directed to a riflescope adjustment knob assembly (or “turret”) configured to automatically lock at a home or “zero” position.

A. The Patents-in-Suit

10. On March 3, 2020, the USPTO duly and lawfully issued United States Patent No. 10,578,399 (“the ‘399 patent”), entitled *Locking Adjustment Device*. Leupold is the assignee and sole owner of the ‘399 patent, a true and correct copy of which is attached hereto as Exhibit 1.

11. On February 22, 2022, the USPTO duly and lawfully issued United States Patent No. 11,255,636 (“the ‘636 patent”), entitled *Locking Adjustment Device*. Leupold is the assignee and sole owner of the ‘636 patent, a true and correct copy of which is attached hereto as Exhibit 2. The ‘399 and ‘636 patents are collectively referred to herein as the Patents-in-Suit.

B. Primary Arms’ Infringing Activities

12. Primary Arms has been making, using, selling, offering to sell, and/or importing the Infringing Products, including without limitation its “GLx” series of riflescopes. Primary Arms’ conduct involving the Infringing Products has occurred in interstate commerce, including in the State of Texas.

13. At no time has Primary Arms had any express or implied authorization, license, or permission to practice the inventions claimed in Leupold’s patents-in-suit.

14. Leupold has complied with the marking requirements of 35 U.S.C. § 287 with respect to the Patents-in-Suit.

15. In or around March of 2023, Leupold put Primary Arms on actual notice of its rights in the ‘399 and ‘636 patents and requested that Primary Arms cease and desist its infringing activities. Primary Arms’ patent infringement continues.

COUNT I

Infringement of United States Patent No. 10,578,399

16. Leupold restates and realleges each of the allegations of paragraphs 1-15 above as if fully set forth herein.

17. Primary Arms has been making, using, selling, offering to sell, and/or importing the Infringing Products—including certain of its “GLx” riflescopes and products with similar functionality—that infringe claims of the ‘399 patent.

18. For example and without limitation, Primary Arms’ GLx 2.5-10x44 FFP riflescope infringes claim 1 of the ‘399 patent as set forth in Exhibit 3 hereto.

19. Among other infringing acts, Primary Arms’ GLx 2.5-10x44 FFP riflescope is offered for sale and sold at <https://www.primaryarms.com/glx-2.5-10x44-ffp-rifle-scope-acss-griffin-mil-reticle> (accessed May 13, 2024).

20. Primary Arms’ patent infringement is and has been willful and with full knowledge of the ‘399 patent and Leupold’s rights therein.

21. Primary Arms’ infringement of the ‘399 patent has caused, and unless restrained and enjoined, will continue to cause irreparable harm to Leupold that cannot be adequately quantified or measured by monetary damages alone and for which there is no adequate remedy at law. Leupold is entitled to preliminary and permanent injunctive relief preventing Primary Arms from continuing to engage in patent infringement.

22. As a direct and proximate result of Primary Arms’ patent infringement, Leupold has sustained actual damages in an amount to be proven at trial, but in no event less than a reasonable royalty.

23. Primary Arms' conduct renders this an exceptional case under 35 U.S.C. § 285, entitling Leupold to recover its attorneys' fees and costs incurred in this action.

COUNT II

Infringement of United States Patent No. 11,255,636

24. Leupold restates and realleges each of the allegations of paragraphs 1-23 above as if fully set forth herein.

25. Primary Arms has been making, using, selling, offering to sell, and/or importing the Infringing Products—including certain of its “GLx” riflescopes and products with similar functionality—that infringe claims of the ‘636 patent.

26. For example and without limitation, Primary Arms' GLx 2.5-10x44 FFP riflescope infringes claim 1 of the ‘636 patent as set forth in Exhibit 4 hereto.

27. Among other infringing acts, Primary Arms' GLx 2.5-10x44 FFP riflescope is offered for sale and sold at <https://www.primaryarms.com/glx-2.5-10x44-ffp-rifle-scope-acss-griffin-mil-reticle> (accessed May 13, 2024).

28. Primary Arms' patent infringement is and has been willful and with full knowledge of the ‘636 patent and Leupold's rights therein.

29. Primary Arms' infringement of the ‘636 patent has caused, and unless restrained and enjoined, will continue to cause irreparable harm to Leupold that cannot be adequately quantified or measured by monetary damages alone and for which there is no adequate remedy at law. Leupold is entitled to preliminary and permanent injunctive relief preventing Primary Arms from continuing to engage in patent infringement.

30. As a direct and proximate result of Primary Arms' patent infringement, Leupold has sustained actual damages in an amount to be proven at trial, but in no event less than a reasonable royalty.

31. Primary Arms' conduct renders this an exceptional case under 35 U.S.C. § 285, entitling Leupold to recover its attorneys' fees and costs incurred in this action.

PRAYER FOR RELIEF

WHEREFORE, Leupold respectfully requests that the Court enter judgment in its favor against Primary Arms, granting the following relief:

- a. A judgment and declaration that Primary Arms has infringed the Patents-in-Suit;
- b. A judgment and orders preliminarily and permanently enjoining Primary Arms and its agents, servants, officers, directors, employees, affiliated entities and all persons acting in concert or privity with it, from infringing each of the Patents-in-Suit;
- c. A judgment and order requiring Primary Arms to pay Leupold all damages caused by their infringement of each of the Patents-in-Suit (but in no event less than a reasonable royalty) pursuant to 35 U.S.C. § 284;
- d. A judgment and order finding that Primary Arms' infringement has been willful and trebling the awarded damages as provided by governing law;
- e. A judgment and order requiring Primary Arms to pay Leupold supplemental damages or profits for any continuing post-verdict infringement up until the entry of a final judgment, with an accounting, if needed;
- f. A judgment and order requiring Primary Arms to pay Leupold pre-judgment and post-judgment interest on any damages or profits awarded;
- g. A determination that this action is an exceptional case pursuant to 35 U.S.C. § 285;

- h. An award of Leupold's attorney fees, costs and expenses incurred in bringing and prosecuting this action, pursuant to 35 U.S.C. § 285; and
- i. Such other and additional relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Leupold respectfully requests a trial by jury of all issues so triable.

Dated: May 29, 2024

Respectfully submitted,

/s/ Miranda Y. Jones

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