

FILED

June 07, 2024

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: lad
DEPUTY

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

JERRY DEWAYNE WASHINGTON JR.
Plaintiff,

v.

CATERPILLAR INC.

Defendant.

C.A. No. *6:24cv310*

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Jerry Dewayne Washington Jr. brings this Complaint for patent infringement against Caterpillar, Inc. (“Defendant” or “Caterpillar”). and alleges the following.

THE PARTIES

1. The Plaintiff, Jerry D. Washington Jr., brings this complaint pro se and resides at 302 30th Ave North Fargo, ND.

2. On information and belief, Caterpillar Inc. is a public parent company with a global headquarters located at N O’Conner Blvd Suite 100, Irving, Texas 75039.

JURISDICTION

3. This Complaint for patent infringement arises under the patent laws of the United States, Title 35, United States Code, and this court has jurisdiction over those claims under 28 U.S.C. § 1338, which directs that United States District Courts shall have original jurisdiction over any civil action arising under any Act of Congress relating to patents, and under 28 U.S.C. § 1331, which pertains to civil actions arising under the laws of the United States.

4. This court has personal jurisdiction over the Defendant because it has engaged in systematic and continuous business activities in this district. As described below, the Defendant has committed acts of patent infringement within this district, giving rise to this action.

VENUE

5. Defendant Caterpillar Inc. maintains an established place of business at 2000 Texas Central Parkway, Waco, TX 76712, and 2901 Gateway Blvd. Waco, Texas 76712. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(2) and 1400(b).

6. The venue is proper in this district because the Defendant has committed acts of patent infringement, and the Plaintiff has suffered harm.

PATENT IN SUIT

7. Plaintiff is the assignee of all rights, titles, and interests in United States Patent No. 7,108,095 (the "Patent-in-Suit"), including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by Defendant.

8. The '095 patent is entitled "System and Method for Generating Power" and was issued by the United States Patent and Trademark Office on 9/19/2006. The application leading

to the '095 patent was filed on 10/29/2002. A true and correct copy of the '095 patent is attached as Exhibit 1 and incorporated herein by reference.

INFRINGEMENT OF THE '095 PATENT

9. Plaintiff repeats and incorporates the allegations contained in paragraphs 1 through 8 above as is set forth fully herein.

10. “Exhibit 2” includes charts comparing the '095 Patent Claims to the Defendant’s products. As outlined in these charts, Defendant’s products practice the technology claimed by the '095 patent. Accordingly, the Defendant’s products incorporated in these charts satisfy all elements of the Exemplary '095 Patent Claims.

11. Plaintiff, therefore, incorporates by reference in its allegations herein “Exhibit 2.”

12. **Actual Knowledge of Infringement.** The '095 patent has been cited as prior art during the prosecution history of subsequently issued United States patents, including multiple patents currently assigned to Caterpillar Inc.

13. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and import into the United States products that infringe the '095 patent. On information and belief, Defendant has continued to sell and distribute product literature and website materials, inducing end users and others to use its products in the customary and intended manner that infringes on the '095 patent. See “Exhibit 2 “(extensively referencing these materials to demonstrate how they direct end users to commit patent infringement).

14. **Direct Infringement.** Defendant has been and continues to directly infringe one or more claims of the '095 patent in at least this district by making, using, offering to sell, selling, and importing, without limitation, at least the Defendant products identified in “Exhibit 2”, literally or by the doctrine of equivalents. On information and belief, numerous other devices that infringe the claims of the '095 patent have been made, used, sold, imported, and offered for

sale by Defendant and its customers.

15. Defendant also has and continues to directly infringe, literally or under the doctrine of equivalents, the Exemplary '095 Patent Claims by having its employees internally evaluate and use these products.

16. **Induced Infringement.** Defendant actively, knowingly, and intentionally has been and continues to induce infringement of the '095 patent, literally or by the doctrine of or under the doctrine of equivalents, by selling products to their customers for use in end-user products in a manner that infringes one or more claims of the '095 patent.

17. Defendant has committed these infringing acts without a license from Plaintiff.

18. Due to Caterpillar's past and continued unlawful infringement of the '095 patent, Plaintiff has suffered and will continue to suffer damage. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement, in an amount that will be ascertained at trial, but in no event less than a reasonable royalty.

JURY DEMAND

19. Under Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment and relief against Caterpillar Inc. as follows:

- A. A judgment by the Court that United States Patent 7,108,095 is valid and enforceable.
- B. A judgment that one or more claims of United States Patent No. 7,108,095 have been directly or indirectly infringed, either literally or under the doctrine of equivalents, by Defendant Caterpillar Inc

C. That Caterpillar Inc. and all its subsidiaries, affiliates, officers, agents, employees, attorneys, and all persons acting in concert or participation with it and each of them deliver to Plaintiff all products that infringe the US 7,108,095 patent.

D. A judgment that awards Plaintiff all appropriate damages for infringement of U.S. Patent No. 7,108,095, with prejudgment interest and costs, said damages to be trebled because of the intentional and willful nature of Caterpillar's infringement, as provided by 35 U.S.C. § 284.

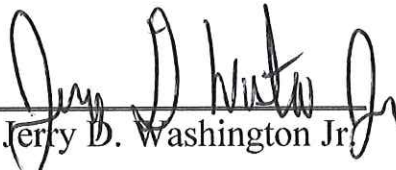
E. An accounting of all damages not presented at trial.

F. Declaring that this case is exceptional within 35 U.S.C. 285 and awarding Plaintiff reasonable fees, costs, and expenses related to prosecuting this action; and

G. that Plaintiff be awarded such further relief at law or in equity as the court deems just and proper.

Dated: May 31, 2024,

Respectfully submitted,


Jerry D. Washington Jr.

302 30th Ave North
Fargo ND 58102
PRO SE PLAINTIFF

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JERRY DEWAYNE
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FARGO, ND 58102
UNITED STATES US

SHIP DATE: 06JUN24
ACTWGT: 1.00 LB
CAD: 699406B/SSFE2521

FARGO, ND 58102
UNITED STATES US

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JUNE 7 2024

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US DISTRICT CLERK
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