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Attorneys for Plaintiff in Dainese S.p.A.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

DAINESE S.p.A.,

Plaintiff,

v.

ALPINESTARS USA Inc. and ALPINESTARS S.p.A.

Defendants.

Case No.:

COMPLAINT FOR:

1) Patent Infringement

DEMAND OF JURY TRIAL

PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff DAINESE S.p.A ("Dainese" or "Plaintiff") files this Complaint for patent infringement against Defendants ALPINESTARS USA Inc. ("Alpinestars USA") and Alpinestars S.p.A. ("Alpinestars Italy") (collectively, "Alpinestars") and states as follows:

NATURE OF THE ACTION

1. This is a civil action for patent infringement under the patent laws of the United States of America, 35 U.S.C. § 1 et seq.

2. Dainese is the owner of all rights, title, and interest in U.S. Patent No. 12,012,065 (the "'065 Patent"), attached as Exhibit A and incorporated by reference in its entirety.

3. Defendants have infringed and continue to infringe one or more claims of the Asserted Patent by making, using, importing, offering to sell, and/or selling within the United States, including in this District, certain protective devices. Dainese seeks to recover monetary damages, attorneys' fees, and costs.

THE PARTIES

4. Dainese S.p.A. is a business organized as a private limited company under the laws of Italy, with a principal place of business at Louvigny, 35 Street, Colceresa (Vicenza), Italy.

5. On information and belief, Defendant Alpinestars USA is a corporation organized under the laws of the State of California, with a principal place of business at 2780 W. 237th Street, Torrance, California 90505.

6. On information and belief, Defendant Alpinestars Italy is an Italian company with a registered office at Via Enrico Fermi, 5, 31011 Asolo TV, Italy.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, Title 35 of the United States Code. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. The Court has personal jurisdiction over Defendants for at least the following reasons: (1) Defendants have committed at least a portion of the infringing acts alleged herein in this District and elsewhere in California; (2) Defendants regularly do business or solicit business in this District and elsewhere in California; (3) Defendants engage in other persistent courses of conduct and derive substantial revenue from products and/or services provided to individuals in this District and elsewhere in California; and (4) the Defendants have purposefully established substantial, systematic, and continuous contacts with this District, including the physical location of Alpinestars USA at 2780 W. 237th Street, Torrance, California 90505, and should reasonably expect to be subject to suit in this District.

9. Venue is proper in this District as to Defendants under the provisions of 28 U.S.C. §§ 1391 and 1400(b) at least because Defendants have committed acts of infringement in this District and at least Alpinestars USA has a regular and established place of business in this District at 2780 W. 237th Street, Torrance, California 90505.

10. On information and belief, Defendant Alpinestars USA has employees within this District. On information and belief, third-party witnesses with knowledge regarding the accused functionality reside within this District.

11. Defendants develop, manufacture, import, distribute, offer to sell, and sell protective airbag system products that infringe the ’065 Patent, which are, and have been imported, offered for sale, sold (directly or through Defendants’ distribution network), and used in California and within this District. Defendants also place infringing products within the stream of commerce, with the knowledge

and/or understanding that such infringing products will be sold and/or used in California and in this District.

BACKGROUND

12. Dainese, the patent owner and Plaintiff, is an award-winning leader in the manufacture of protective clothing that has been recognized throughout the world for over 50 years. Dainese currently employs approximately 1,400 persons throughout the world.

13. Over the decades, Dainese focuses its protective clothing designs in a variety of sports and activities, including motorcycling, biking, horseback riding, sailing, skiing, and even space travel. Dainese's products are some of the most advanced protective products both on the world and off it. They are commonly found and used by professional racers, Olympic athletes, and even astronauts.

14. In particular, Dainese has made significant investments in the development of its D-Air® technology that uses airbag technology within its clothing that can inflate when it senses an accident and protect the wearer from impacts with the ground, pavement, and other objects.

15. Dainese sells its products in the United States through multiple channels, including Dainese USA Inc. that operates www.dainese.com in the United States where products can be purchased, along with physical stores in Atlanta, Chicago, Dallas, Las Vegas, Los Angeles, Miami, New York, Orange County, Orlando, Phoenix, San Diego, San Francisco, and Seattle.

16. As a business, Dainese is committed to protecting its investments and development efforts through intellectual property. This includes its commitment to exclude competitors from the market for its patented inventions related to protective airbag systems, such as products that use the invention claimed in the '065 Patent.

U.S. PATENT NO. 12,012,065

17. The '065 Patent derives from International Patent Application No. PCT/IB2020/061689 that was filed on December 9, 2020. On June 18, 2024, the United States Patent and Trademark Office duly and legally issued the '065 Patent, titled, "Protective Device and Method for Making Said Protective Device," after a full and fair examination.

18. Exhibit A is a true and correct copy of the '065 Patent.

19. Plaintiff is the owner of the '065 Patent, having received all right, title and interest in the '065 patent by assignment from D-AIR LAB S.R.L. to Dainese on June 14, 2024.

20. Plaintiff possesses all right of recovery under the '065 patent, including the exclusive right to recover for past infringement.

21. The '065 Patent claims are directed to a patent-eligible; non-abstract invention.

22. The '065 Patent generally describes a protective device used to protect users. It is preferably worn by persons and includes an inflatable element, which in its inflated condition is configured to protect users, such as a vehicle passenger, motorcycle rider, or similar users that may be subject to impacts or falls during a

sporting, working, or other activity. An embodiment of the inflatable element is indicated by number 110 in Figure 1 of the '065 patent (reproduced below).

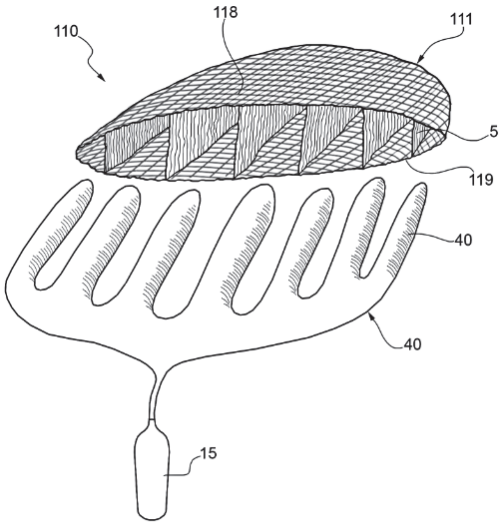


FIG.1

23. The '065 Patent acknowledges that prior protective devices utilize inflatable elements that are inflated in an active condition and deflated at rest. The inflatable element includes a mesh body, which is a closed, or at least tubular, structure defining an inner region, or area, or chamber. The mesh body is covered by waterproofing walls which are arranged externally with respect to the mesh body and allow to contain an inflation fluid for a certain time period. The walls are, for example, a first sheet, or first wall, and a second sheet, or second wall, fixed to each other along their respective perimetric edges. As a consequence, said first and second sheet cover and line the mesh body on an external side or surface.

24. Such prior design of inflatable elements has the disadvantage in a deflated condition of creating a sort of bag around the user's body that does not allow adequate passage of ventilation air.

25. The invention disclosed and claimed in the '065 Patent overcomes the disadvantages to allow greater ventilation. As claimed, the '065 Patented invention comprises a mesh structure 111 with a first mesh portion 118, a second mesh portion

119, and a plurality of tie elements 5. The first and second mesh portions are arranged opposite of each other and are connected to one another by the tie elements to define one or more inner housings of the mesh structure.

26. The patented design further provides an inflatable casing body 40 that is arranged in the inner housing. When deflated, the casing body occupies a first space or first region and a second region or second space of an inner housing lacks the casing body. When inflated, the casing body occupies the second region or second space. In other words, the mesh structure contains the inflation of the casing body.

27. Furthermore, the casing body comprises a plurality of portions that are arranged in corresponding inner housings where the plurality of inner housings define channels that are arranged side-by-side and are separated by tie elements. Each of the plurality of inner housings is configured to house a corresponding portion of the inflatable casing body. Once inflated portions of the casing body are inflated against the first mesh portion, the second mesh portion, and the tie elements in order to form a planar structure. Multiple embodiments of the invention are described and shown in the specification and figures of the ’065 Patent.

28. Claims 1 and 18 of the ’065 Patent are independent claims. Claim 1 recites the following limitations:

> 1. A protective device for the protection of a user, said protective device comprising a mesh structure comprising a first mesh portion and a second mesh portion and a plurality of tie elements, wherein said first mesh portion and said second mesh portion are opposite one another and are connected one another by said plurality of tie elements; wherein said tie elements comprise dividing walls defining a plurality of inner housings between said first mesh portion and said second mesh portion;
>
> wherein said protective device includes a casing body arranged at least in an inner housing of said plurality of inner housings,

wherein said casing body is configured to assume a deflated condition and an inflated condition in said at least one inner housing of said mesh structure, and wherein in said deflated condition, said casing body occupies a first space or first region, and wherein in the deflated condition a second region or second space of said at least one inner housing lacks a casing body, and wherein in the inflated condition said casing body occupies the second region or second space,

wherein said casing body comprises a plurality of portions each arranged in a corresponding inner housing of said plurality of inner housings, and wherein said plurality of inner housings define channels arranged side-by-side one another and separated from each other by a tie element of said plurality of tie elements, each of said plurality of inner housings configured to house a corresponding portion of said casing body, and

wherein in the inflated condition, said portions of said casing body are inflated against said first mesh portion, said second mesh portion, and said tie elements so as to form a planar structure.

ALPINESTARS INFRINGING PRODUCTS

29. Alpinestars makes, uses, sells, offers for sale, and imports into the United States protective devices, such as the Tech-Air 3 and Tech-Air 10 systems and other similar designs, that utilize an inflatable airbag designed to inflate upon detection of an accident and protect a user from impacts (the "Accused Products").

30. Alpinestars owns, manages, and operates a website at www.alpinestars.com that it uses to offer to sell and sell its protective devices into the United States. Upon information and belief, Alpinestars also sells its protective devices to customers in the United States through third-party distributors.

31. Upon information and belief, Alpinestars has monitored the publication and issuance of patents in its industry and has had knowledge of the '065 Patent and/or its foreign equivalent patents and applications prior to and/or soon after its issuance of the '065 Patent. Finally, Alpinestars would be aware of the '065 Patent at least by

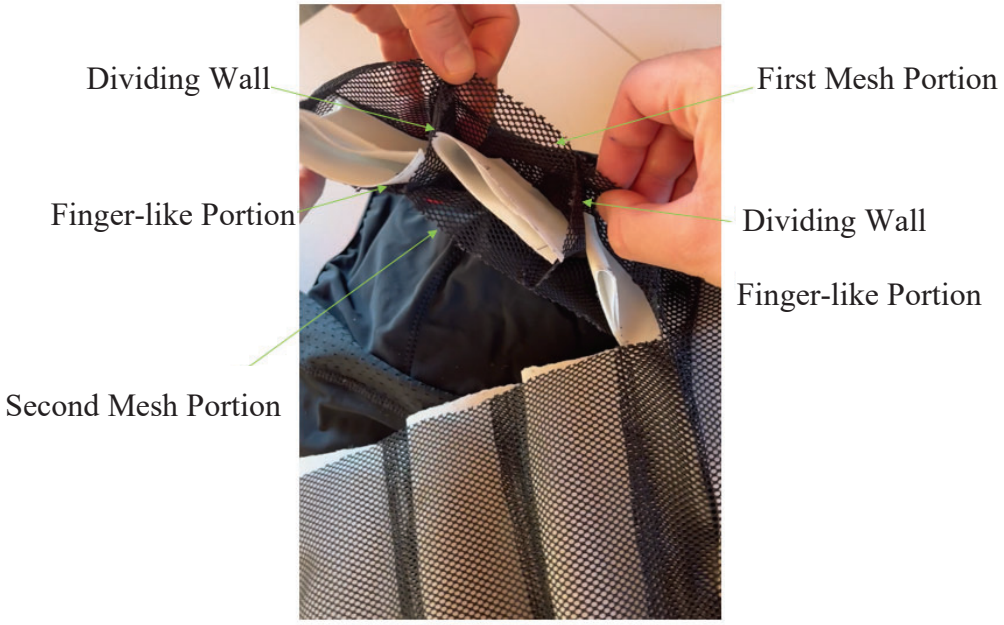
service of this complaint and suit.

32. The Tech-Air 3 system and its various models (*e.g.,* Man, Leather, Canvas, and Stella) are a sleeveless jacket designed for motorcycle riders. The Tech-Air 3 is manufactured with mesh housing structure that contains an inflatable member.

Tech-Air 3 (alpinestars.com)

Image of Tech-Air 3 inflatable member/casing body (white) and the mesh housing/structure (black) partially separated from covering layer.

33.The inflatable member of the Tech-Air 3 comprises two substantially hand-shaped parts that are placed on the front and rear sides of the jacket respectively. Each hand-shaped part of the inflatable member acts as a casing body that includes a plurality of finger-like portions connected at their upper ends in a joining portion. The mesh housing structure surrounds the inflatable member and defines a plurality

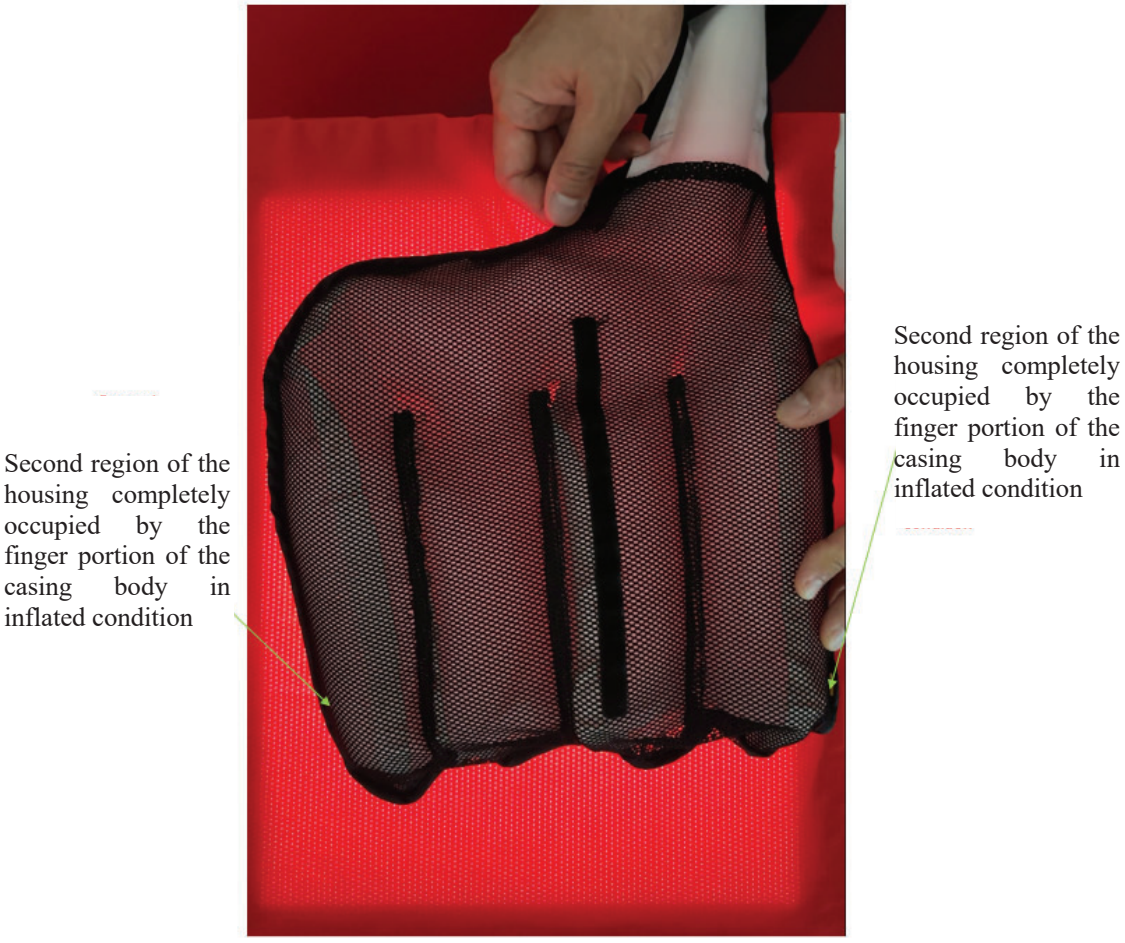


of mesh inner housing channels that are side-by-side and separated by a plurality of dividing walls that act as tie elements connected to the front and rear sides of the mesh housing. The dividing walls are placed under tension when the inflatable member inflates. Each inner channel receives a respective finger-like portion of the inflatable member.

34. In the deflated condition, each finger-like portion is folded upon itself and inserted into the respective channel of the mesh housing such that the inflatable member portions occupy a first region of the mesh housing and there is a free second region that is not occupied by the inflatable member. As a result, the second free space allows for ventilation.

Deflated Condition

35. When inflated, the finger-like portions of the inflatable member expand until they occupy the second region and space within each respective channel of the mesh housing. The inflatable member inflates until it reaches the maximum tension of the dividing walls and expand laterally. As a result, the finger-like portions of the inflatable member occupy the second region and space inside the respective channel of the mesh housing that was not occupied in the deflated condition.



Inflated Condition

36. When inflated, the inflatable member portions are inflated against the front and rear sides of the mesh housing and the dividing walls. In this configuration, the inflated system forms a planar structure.

37. The Tech-Air 10 system is a full motorcycle undersuit airbag protection system that is designed to be worn under a typical motorcycle leather suit. Like the

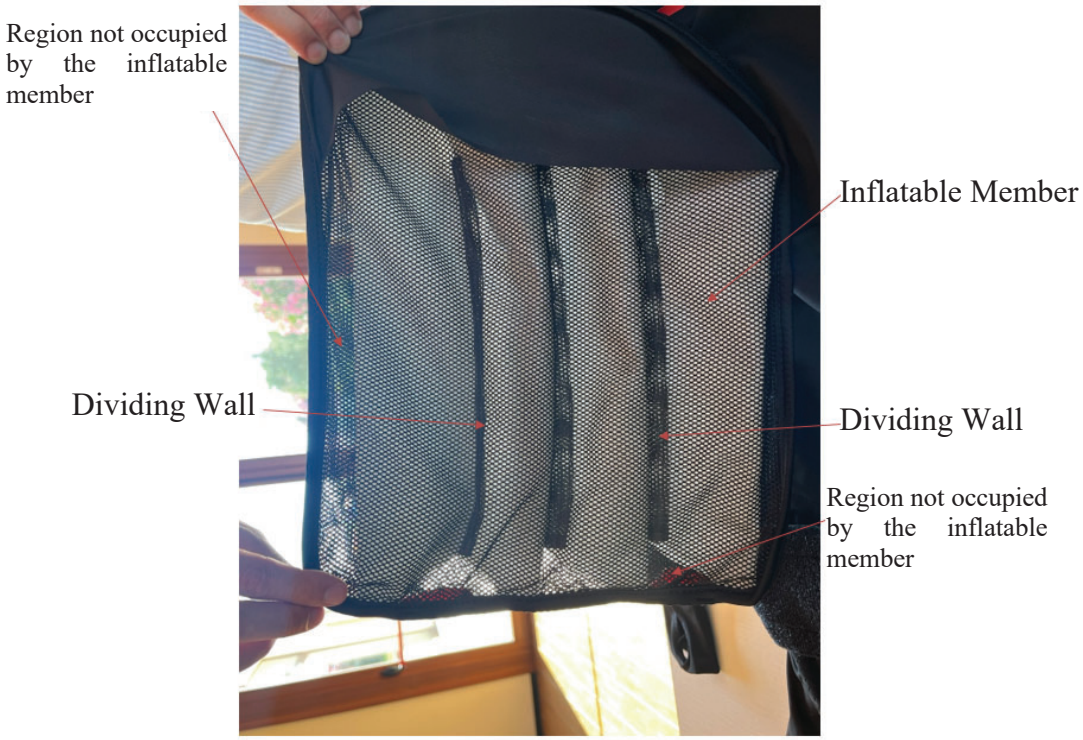
Tech-Air 10 (alpinestars.com)

Tech-Air 3 system, the Tech-Air 10 includes an inflatable member or airbag that inflates upon detection of an accident and protects a wearer's chest and back from impacts.

38. The Tech-Air 10 uses the same style of inflatable member and mesh housing design as the Tech-Air 3 system. The inflatable member and mesh housing system are contained in a pocket on the front and rear side of the undersuit under the covering layer of the suit.

39. The Tech-Air 10 is designed and functions in a similar manner as described previously with regard to the Tech-Air 3. The inflatable member/casing body consists of finger-like portions that are received into side-by-side channels created in the mesh housing tie elements connected to the front and rear of the mesh housing creating dividing walls. In the deflated state, the Tech-Air 10 inflatable

member occupies a first region and space and does not occupy a second region and space of the inner housing channels, thus creating space available for ventilation.



40. When the inflatable member of the Tech-Air 10 is inflated, the finger-like portions of the inflatable member expand until they occupy the second region and space within each respective channel of the mesh housing. The inflatable member inflates until it reaches the maximum tension of the dividing walls and expands laterally. As a result, the finger-like portions of the inflatable member occupy the second region and space inside the respective channel of the mesh housing that was not occupied in the deflated condition.

41. When inflated, the Tech-Air 10 inflatable member portions are inflated against the front and rear sides of the mesh housing and the dividing walls. In this configuration, the inflated system forms a planar structure.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 12,012,065

42. Dainese realleges and incorporates herein by reference the allegations set forth in Paragraphs 1-41 of this Complaint.

43. Defendants directly and literally infringe one or more claims of the '065 Patent, by, without authority, making, using, importing, selling, or offering to sell the Accused Products within the United States in violation of 35 U.S.C. § 271(a).

44. To the extent, the Accused Products are found to not literally infringe each limitation of one of more claims of the '065 Patent, any such differences are insubstantial, and the Accused Products would directly infringe under the doctrine of equivalents.

45. Dainese has been and continues to be injured by Defendants' infringement of the '065 Patent. Dainese is entitled to recover damages adequate to compensate it for Defendants' infringing activities in an amount to be determined at trial but in no event less than a reasonable royalty.

46. As alleged herein, Defendants' have had knowledge of or should have known of the '065 Patent and its infringement prior to filing of this Complaint. Accordingly, Defendants' continued infringement has been intentional and willful.

DEMAND FOR JURY TRIAL

47. Dainese S.p.A. demands a trial by jury on all claims and issues.

REQUEST FOR RELIEF

Dainese S.p.A. respectfully demands judgment against Defendants as follows:

a. That Judgment be entered that Defendants have infringed one or more claims of the '065 Patent;

b. An award of damages pursuant to 35 U.S.C. § 284, sufficient to compensate Plaintiff for the Defendant's past infringement and any continuing or future infringement;

c. An assessment of pre-judgment and post-judgment interest and costs against Defendant, together with an award of such interest and costs, in accordance with 35 U.S.C. § 284;

d. That a permanent injunction restraining and enjoining Defendants and their officers, directors, agents, employees, successors, assigns, parents, subsidiaries, and affiliated or related companies from directly or indirectly infringing the '065 Patent;

e. That Defendant be directed to pay enhanced damages, including Plaintiff's attorneys' fees incurred in connection with this lawsuit pursuant to 35 U.S.C. § 285; and

f. That Plaintiff be granted such other and further relief as this Court may deem just and proper.

This 20th day of August, 2024 ADDYHART P.C.

By: *Paul N. Tauger*
Paul N. Tauger