

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

	)	
RUGGED CROSS HUNTING BLINDS,	)	No.: 3:22-CV-00690
LLC,	)	
	)	
	)	
Plaintiff,	)	FERADYNE OUTDOORS, LLC’S
v.	)	ANSWER TO SECOND AMENDED
	)	COMPLAINT, AFFIRMATIVE
FERADYNE OUTDOORS, LLC and DBR	)	DEFENSES, AND
FINANCE, INC., f/k/a OUTDOOR	)	COUNTERCLAIMS
PRODUCT INNOVATIONS, INC.,	)	
	)	(Jury Trial Demanded)
Defendants.	)	
	)	

Defendant FeraDyne Outdoors, LLC (“FeraDyne”), through its undersigned attorneys, hereby answers the corresponding paragraphs of Plaintiff Rugged Cross Hunting Blinds, LLC’s (“RCHB’s”) Second Amended Complaint for Patent Infringement (“Complaint”) as follows:

NATURE OF ACTION

1. FeraDyne denies the allegations set forth in paragraph 1 of Plaintiff’s Complaint.

PARTIES

2. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 2 of Plaintiff’s Complaint and thus denies those allegations.
3. FeraDyne admits the allegations set forth in paragraph 3 of Plaintiff’s Complaint.
4. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 4 of Plaintiff’s Complaint and thus denies those allegations.

JURISDICTION AND VENUE

5. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 5 of Plaintiff’s Complaint and thus denies those allegations.

6. FeraDyne denies the allegations set forth in paragraph 6 of Plaintiff's Complaint.
7. FeraDyne denies the allegations set forth in paragraph 7 of Plaintiff's Complaint.
8. FeraDyne denies the allegations set forth in paragraph 8 of Plaintiff's Complaint.
9. FeraDyne denies the allegations set forth in paragraph 9 of Plaintiff's Complaint.
10. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 10 of Plaintiff's Complaint and thus denies those allegations.

FACTUAL BACKGROUND

11. FeraDyne realleges and incorporates by reference each and every response set forth in paragraphs 1-10 above as if fully set forth herein.
12. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 12 of Plaintiff's Complaint and thus denies those allegations.
13. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 13 of Plaintiff's Complaint and thus denies those allegations.
14. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 14 of Plaintiff's Complaint and thus denies those allegations.
15. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 15 of Plaintiff's Complaint and thus denies those allegations.
16. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 16 of Plaintiff's Complaint and thus denies those allegations.
17. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 17 of Plaintiff's Complaint and thus denies those allegations.
18. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 18 of Plaintiff's Complaint and thus denies those allegations.

19. FeraDyne denies the alleged mesh material is novel. FeraDyne is without sufficient information to admit or deny the remaining allegations set forth in paragraph 19 of Plaintiff's Complaint and thus denies those allegations.

20. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 20 of Plaintiff's Complaint and thus denies those allegations.

21. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 21 of Plaintiff's Complaint and thus denies those allegations.

22. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 22 of Plaintiff's Complaint and thus denies those allegations.

23. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 23 of Plaintiff's Complaint and thus denies those allegations.

24. FeraDyne denies the alleged mesh material is novel. FeraDyne is without sufficient information to admit or deny the remaining allegations set forth in paragraph 24 of Plaintiff's Complaint and thus denies those allegations.

25. FeraDyne denies the alleged mesh material is novel. FeraDyne is without sufficient information to admit or deny the remaining allegations set forth in paragraph 25 of Plaintiff's Complaint and thus denies those allegations.

26. FeraDyne denies the alleged mesh material is novel. FeraDyne is without sufficient information to admit or deny the remaining allegations set forth in paragraph 26 of Plaintiff's Complaint and thus denies those allegations.

27. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 27 of Plaintiff's Complaint and thus denies those allegations.

28. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 28 of Plaintiff's Complaint and thus denies those allegations.

29. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 29 of Plaintiff's Complaint and thus denies those allegations.

30. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 30 of Plaintiff's Complaint and thus denies those allegations.

31. FeraDyne denies the alleged mesh material is novel and denies that any of DBR's blinds incorporated RCHB's purported mesh material. FeraDyne is without sufficient information to admit or deny the remaining allegations set forth in paragraph 31 of Plaintiff's Complaint and thus denies those allegations.

32. FeraDyne admits it sells archery, hunting and outdoor industry products. FeraDyne denies it acquired OPI. FeraDyne is without sufficient information to admit or deny the remaining allegations set forth in paragraph 32 of Plaintiff's Complaint and thus denies those allegations.

33. FeraDyne denies the allegations set forth in paragraph 33 of Plaintiff's Complaint.

34. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 34 of Plaintiff's Complaint and thus denies those allegations.

35. FeraDyne denies that it acquired OPI. FeraDyne is without sufficient information to admit or deny the remaining allegations set forth in paragraph 35 of Plaintiff's Complaint.

36. FeraDyne denies the allegations set forth in paragraph 36 of Plaintiff's Complaint.

37. FeraDyne admits the allegations set forth in paragraph 37 of Plaintiff's Complaint.

38. FeraDyne denies the allegations set forth in paragraph 38 of Plaintiff's Complaint.

39. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 39 of Plaintiff's Complaint and thus denies those allegations.

40. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 40 of Plaintiff's Complaint and thus denies those allegations.

41. FeraDyne affirmatively states that the allegations set forth in paragraph 41 of Plaintiff's Complaint do not form a complete sentence. FeraDyne thus denies the allegations set forth in paragraph 41 of Plaintiff's Complaint.

42. FeraDyne denies the allegations set forth in paragraph 42 of Plaintiff's Complaint.

43. FeraDyne denies that it engaged in any wrongful conduct. FeraDyne is without sufficient information to admit or deny the remaining allegations set forth in paragraph 43 of Plaintiff's Complaint and thus denies those allegations.

COUNT I AS TO DEFENDANT, FERADYNE
ALLEGED PATENT INFRINGEMENT OF U.S. PATENT NO. 11,399,535

44. FeraDyne realleges and incorporates by reference each and every response set forth in paragraphs 1-43 above as if fully set forth herein.

45. FeraDyne denies the allegations set forth in paragraph 45 of Plaintiff's Complaint.

46. FeraDyne denies the allegations set forth in paragraph 46 of Plaintiff's Complaint.

47. FeraDyne denies the allegations set forth in paragraph 47 of Plaintiff's Complaint.

48. FeraDyne denies the allegations set forth in paragraph 48 of Plaintiff's Complaint.

49. FeraDyne denies the allegations set forth in paragraph 49 of Plaintiff's Complaint.

50. FeraDyne denies the allegations set forth in paragraph 50 of Plaintiff's Complaint.

51. FeraDyne denies the allegations set forth in paragraph 51 of Plaintiff's Complaint.

COUNT II AS TO DEFENDANT, DBR
ALLEGED PATENT INFRINGEMENT OF U.S. PATENT NO. 11,399,535

52. FeraDyne realleges and incorporates by reference each and every response set forth in paragraphs 1-51 above as if fully set forth herein.

53. FeraDyne denies the allegations set forth in paragraph 53 of Plaintiff's Complaint.

54. FeraDyne denies the allegations set forth in paragraph 54 of Plaintiff's Complaint.

55. FeraDyne denies the allegations set forth in paragraph 55 of Plaintiff's Complaint.

56. FeraDyne denies the allegations set forth in paragraph 56 of Plaintiff's Complaint.

57. FeraDyne is without sufficient information to admit or deny the allegations set forth in paragraph 57 of Plaintiff's Complaint and thus denies those allegations.

58. FeraDyne denies the allegations set forth in paragraph 58 of Plaintiff's Complaint.

59. FeraDyne denies the allegations set forth in paragraph 59 of Plaintiff's Complaint.

PRAYER FOR RELIEF

To the extent that any response is required, FeraDyne denies that RCHB is entitled to any relief, judgment, or order with respect to FeraDyne whatsoever. FeraDyne specifically denies all of the allegations in subparagraphs (A) – (F) of RCHB's Prayer for Relief.

FERADYNE'S AFFIRMATIVE DEFENSES

Without admitting or acknowledging that it bears the burden of proof as to any of the defenses set forth herein, FeraDyne alleges the following as affirmative defenses to the Complaint and the relief sought therein:

FIRST AFFIRMATIVE DEFENSE **(FAILURE TO STATE A CLAIM FOR RELIEF)**

60. The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE **(NON-INFRINGEMENT)**

61. FeraDyne has not infringed, and is not infringing, any valid and enforceable claim of the '535 Patent (hereinafter referred to as the "Asserted Patent"), willfully or otherwise, directly or indirectly, by inducement or contributory infringement, literally or by application of the doctrine of equivalents.

THIRD AFFIRMATIVE DEFENSE
(INVALIDITY OF '535 PATENT)

62. Some or all of the claims of the Asserted Patent are invalid for failure to satisfy one or more of the requirements for patentability of Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 102 and 103. The Asserted Patent also fails to meet the requirements set forth in 35 U.S.C. § 112 and is invalid and void against FeraDyne, for either or both of the following reasons:

(a) The specification of the Asserted Patent is incomplete, vague and indefinite and does not contain a written description of the alleged invention, and of the manner and process of making and using the alleged invention, in such full, clear, concise and exact terms as to enable a person skilled in the art to which it pertains, to make and use the same; and

(b) The claims of the Asserted Patent are vague and indefinite and fail to particularly point out and distinctly claim the subject matter of the alleged invention.

FOURTH AFFIRMATIVE DEFENSE
(PROSECUTION HISTORY DISCLAIMER AND
PROSECUTION HISTORY ESTOPPEL)

63. RCHB is barred under the doctrine of prosecution history disclaimer from asserting any claim construction that would cause any claim of the Asserted Patent to read on FeraDyne's products or activities, and is further barred from asserting a claim for infringement under the doctrine of equivalents by the doctrine of prosecution history estoppel.

FIFTH AFFIRMATIVE DEFENSE
(FAILURE TO MARK)

64. Any recovery by RCHB is limited to any alleged infringement that occurred after the filing of the Complaint or after RCHB provided actual notice of the Asserted Patent to FeraDyne, as RCHB and/or RCHB's licensees have failed to mark any products made under the Asserted Patent in conformance with the requirements of 35 U.S.C. § 287.

SIXTH AFFIRMATIVE DEFENSE
(ADEQUATE REMEDY AT LAW)

65. No basis exists for the grant of equitable relief to RCHB because RCHB has an adequate remedy at law if there is ultimately a finding of infringement of any of the claims of the Asserted Patent.

SEVENTH AFFIRMATIVE DEFENSE
(NO INJUNCTIVE RELIEF)

66. Neither preliminary nor permanent injunctive relief is available to RCHB under the legal standards for injunctions because, among other things, RCHB is not likely to succeed on the merits, RCHB will not suffer irreparable harm, and FeraDyne is not practicing the alleged invention disclosed in the Asserted Patent. In addition, the balance of hardships and public interest do not favor an injunction in this case.

EIGHTH AFFIRMATIVE DEFENSE
(LIMITATION ON INDIRECT INFRINGEMENT CLAIM)

67. To the extent RCHB's Complaint includes a claim of indirect infringement, such claim is barred because: (i) FeraDyne did not have actual knowledge of the Asserted Patent; (ii) FeraDyne did not have actual knowledge of the alleged infringement of the Asserted Patent by any third-parties; and (iii) FeraDyne did not have any specific intent for any third parties to infringe the Asserted Patent.

NINTH AFFIRMATIVE DEFENSE
(NO WILLFUL INFRINGEMENT OR ENHANCED DAMAGES)

68. RCHB is not entitled to a willful infringement finding and/or enhanced damages because it has failed to plead, and cannot show, the requirements for willful infringement and enhanced damages. Further, RCHB is not entitled to assert a charge of willful infringement and request enhanced damages because it cannot show FeraDyne's actual

knowledge of the Asserted Patent prior to RCHB's filing of the Complaint and cannot show FeraDyne's infringement of the Asserted Patent prior to RCHB's filing of the Complaint. Any claim and recovery for willful infringement is limited to the period after which RCHB can make such a showing.

TENTH AFFIRMATIVE DEFENSE
(RESERVED)

69. FeraDyne reserves the right to amend or supplement its affirmative defenses as they may arise during discovery in this matter.

FERADYNE'S COUNTERCLAIMS

For its Counterclaims against Rugged Cross Hunting Blinds, LLC ("RCHB"), Counterclaim-Plaintiff FeraDyne Outdoors, LLC ("FeraDyne") alleges as follows:

THE PARTIES

1. Counterclaim-Plaintiff FeraDyne is a limited liability company organized and existing under the laws of the state of Delaware and registered to do business in the State of Wisconsin. FeraDyne maintains places of business located at 101 Main Street and 1230 Poplar Avenue, both in Superior, Wisconsin 54880.

2. On information and belief, Counterclaim-Defendant RCHB is a limited liability company organized and existing under the law of the State of Florida that maintains a principal place of business at 15206 Tilwood Place, Tampa, Florida 33618.

JURISDICTION

3. Counterclaim-Plaintiff FeraDyne's Counterclaims are for declarations of non-infringement and invalidity of U.S. Patent No. 11,399,535 ("Asserted Patent"). Accordingly, this Court has subject matter jurisdiction over the Counterclaim-Plaintiff's Counterclaims

pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202, as well as the Patent Act, 35 U.S.C. § 1, *et seq.*

4. RCHB alleges that it owns all right, title and interest in, and has standing to sue for infringement of the Asserted Patent.

5. RCHB has submitted itself to this Court's jurisdiction by alleging, in the present lawsuit, that FeraDyne infringes the Asserted Patent. Accordingly, an actual case or controversy between Counterclaim-Plaintiff FeraDyne and Counterclaim-Defendant RCHB exists and is of such immediacy and reality to warrant the issuance of a declaratory judgment.

COUNT I
DECLARATORY JUDGMENT OF NON-INFRINGEMENT
OF U.S. PATENT NO. 11,399,535

6. Counterclaim-Plaintiff FeraDyne incorporates and realleges the allegations set forth in Counterclaim Paragraphs 1-5, above, as if set forth fully herein.

7. Counterclaim-Plaintiff FeraDyne does not infringe and has not infringed, directly or indirectly, literally or pursuant to the doctrine of equivalents, any claim of the Asserted Patent.

8. Counterclaim-Plaintiff FeraDyne seeks a declaratory judgment that it has not and does not infringe any claim of the Asserted Patent.

COUNT II
DECLARATORY JUDGMENT OF INVALIDITY
OF U.S. PATENT NO. 11,399,535

9. Counterclaim-Plaintiff FeraDyne incorporates and realleges the allegations set forth in Counterclaim Paragraphs 1-8, above, as if set forth fully herein.

10. The claims of the Asserted Patent are invalid for failure to meet the conditions of patentability or to otherwise comply with the requirements set forth in 35 U.S.C. §§ 102, 103, and/or 112.

11. Counterclaim-Plaintiff FeraDyne seeks a declaratory judgment that the claims of the Asserted Patent are invalid for failure to meet the conditions of patentability or to otherwise comply with the requirements set forth in 35 U.S.C. §§ 102, 103, and/or 112.

PRAYER FOR RELIEF

WHEREFORE, FeraDyne respectfully requests that this Court enter judgment in its favor and against RCHB and grant the following relief:

1. An order that the Complaint filed by RCHB be dismissed in its entirety with prejudice, that judgment be entered in favor of FeraDyne and against RCHB on all claims set forth in the Complaint, that each of FeraDyne's Affirmative Defenses and Counterclaims be granted, and that RCHB be denied all relief requested from FeraDyne in the Complaint;

2. A judgment declaring that FeraDyne has not infringed, and is not infringing, any valid, enforceable, and asserted claim of the Asserted Patent;

3. A judgment declaring that FeraDyne has not willfully infringed, and is not willfully infringing, any valid, enforceable, and asserted claim of the Asserted Patent;

4. A judgment declaring that all of the claims of the Asserted Patent are invalid and unenforceable;

5. An order finding this is an exceptional case under 35 U.S.C. § 285, and awarding FeraDyne its costs and fees in this action, including attorneys' fees and prejudgment interest thereon for actions taken by RCHB including, but not limited to, asserting infringement of one or more patents known to be or that should have been known to be invalid and unenforceable; and

6. An order awarding FeraDyne such further relief as the Court deems just and proper.

JURY DEMAND

FeraDyne requests a trial by jury on all issues so triable.

Dated: June 30, 2023

s/ Craig S. Krummen

GREENBERG TRAURIG, LLP

Craig S. Krummen (*admitted to practice in
Western District of Wisconsin on December
14, 2009*)

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***Attorneys for Defendant and
Counterclaim Plaintiff***