

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

VERMEER MANUFACTURING
COMPANY,

Plaintiff,

vs.

KUBOTA NORTH AMERICA
CORPORATION and KUBOTA TRACTOR
CORPORATION

Defendants.

C.A. No. 4:24-cv-00799-P

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

Plaintiff Vermeer Manufacturing Company (“Plaintiff” or “Vermeer”) alleges as follows for its First Amended Complaint for Patent Infringement against Defendants Kubota America Corporation and Kubota Tractor Corporation (collectively, “Defendants” or “Kubota”):

Nature of the Action

1. This is an action for infringement of U.S. Patent No. 9,321,386, U.S. Patent No. 9,975,750, U.S. Patent No. 10,202,266, U.S. Patent No. 11,465,891, and U.S. Patent No. 12,098,063 under 35 U.S.C. § 271 *et seq.* brought by Vermeer against Kubota.

Parties

2. Plaintiff Vermeer Manufacturing Company is an Iowa corporation with a principal place of business at 1210 E. Vermeer Road, Pella, Iowa 50219.

3. Defendant Kubota North America Corporation is a Delaware corporation with its principal place of business at 1000 Kubota Drive, Grapevine, Texas 76051.

4. Defendant Kubota Tractor Corporation is a California corporation with its principal place of business at 1000 Kubota Drive, Grapevine, Texas 76051.

Jurisdiction and Venue

5. The Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a) because it arises under the patent laws of the United States.

6. The Court has personal jurisdiction over Kubota North America in this action because Kubota North America has its principal place of business in Grapevine, Texas, conducts business in Texas, and has committed acts of patent infringement in Texas, including making, using, selling, and/or offering for sale infringing products.

7. The Court has personal jurisdiction over Kubota Tractor Corporation in this action because Kubota Tractor Corporation has its principal place of business in Grapevine, Texas, conducts business in Texas, and has committed acts of patent infringement in Texas, including making, using, selling, and/or offering for sale infringing products.

8. Venue is proper in this District under 28 U.S.C. § 1400(b) because Defendants have a regular and established place of business in this District and have committed acts of infringement in this District.

Patents-in-Suit

9. On April 26, 2016, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 9,321,386, entitled *Low Profile Compact Tool Carriers* (the “’386 Patent”). On April 12, 2018, the U.S. Patent and Trademark Office duly and legally issued an *Ex Parte* Reexamination Certificate for the ’386 Patent. A copy of the ’386 Patent, which includes the Reexamination Certificate, is attached as Exhibit A.

10. On May 22, 2018, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 9,975,750, entitled *Low Profile Compact Tool Carriers* (the “’750 Patent”). On February 3, 2020, the U.S. Patent and Trademark Office duly and legally issued an *Ex Parte*

Reexamination Certificate for the '750 Patent. A copy of the '750 Patent, which includes the Reexamination Certificate, is attached as Exhibit B.

11. On February 12, 2019, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 10,202,266, entitled *Low Profile Compact Tool Carriers* (the "'266 Patent"). On September 18, 2020, the U.S. Patent and Trademark Office duly and legally issued an *Ex Parte* Reexamination Certificate for the '266 Patent. A copy of the '266 Patent, which includes the Reexamination Certificate, is attached as Exhibit C.

12. On October 11, 2022, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 11,465,891, entitled *Loader Apparatus Configured for Standing Operator Control* (the "'891 Patent"). A copy of the '891 Patent is attached as Exhibit D.

13. On September 24, 2024, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 12,098,063, entitled *Compact Tool Carrier and Mainframes for a Self-Propelled Machine* (the "'063 Patent"). A copy of the '063 Patent is attached as Exhibit E. Collectively, the '386 Patent, the '750 Patent, the '266 Patent, the '891 Patent, and the '063 Patent are referred to herein as the "Asserted Patents."

14. Vermeer is the owner of all right, title, and interest in the Asserted Patents and has the right to sue for infringement thereof.

15. The Asserted Patents are valid and enforceable.

Infringement of the Asserted Patents

16. Kubota has infringed the Asserted Patents by making, using, offering for sale, and/or selling at least Kubota's SCL1000 Stand-On Compact Loader (the "Accused Product") in the United States.

17. Kubota has had knowledge of the '386 Patent, the '750 Patent, the '266 Patent, and the '891 Patent since at least May 15, 2023, when Vermeer provided Kubota with claim charts that set forth how the Accused Product met the limitations of at least one claim of each of these Asserted Patents.

18. Vermeer has complied with its obligations under 35 U.S.C. § 287(a) with respect to each of the Asserted Patents by (a) marking its mini skid steers by fixing thereon the word “patent” or the abbreviation “pat.” together with an address of a posting on the Internet—accessible to the public without charge for accessing the address—that associates the patented article with the number of the patent, (b) notifying Kubota of the infringement of the patent, and/or (c) filing this complaint.

19. Kubota’s infringing acts will continue unless restrained by this Court.

Count I – Infringement of the '386 Patent

20. Vermeer realleges and incorporates by reference all other paragraphs of this Complaint.

21. Kubota infringes, literally or under the doctrine of equivalents, at least claim 1 of the '386 Patent by making, using, importing, selling, and/or offering for sale the SCL1000 Stand-On Compact Loader.

22. Kubota’s actions have caused harm to Vermeer, which are not fully compensable by monetary damages.

23. Kubota’s infringement has occurred with full knowledge of the '386 Patent since at least May 15, 2023, and has been willful and deliberate since at least that time.

24. Kubota’s past infringement has caused damage to Vermeer and its future sales will result in additional such damage.

25. A claim chart setting forth how the Accused Product satisfies the requirements of Claim 1 of the '386 Patent is attached as Exhibit F.

Count II – Infringement of the '750 Patent

26. Vermeer realleges and incorporates by reference all other paragraphs of this Complaint.

27. Kubota infringes, literally or under the doctrine of equivalents, at least claim 1 of the '750 Patent by making, using, selling, and/or offering for sale the SCL1000.

28. Kubota's actions have caused harm to Vermeer, which are not fully compensable by monetary damages.

29. Kubota's infringement has occurred with full knowledge of the '750 Patent since at least May 15, 2023, and has been willful and deliberate since at least that time.

30. Kubota's past infringement has caused damage to Vermeer and its future sales will result in additional such damage.

31. A claim chart setting forth how the Accused Product satisfies the requirements of Claim 1 of the '750 Patent is attached as Exhibit G.

Count III – Infringement of the '266 Patent

32. Vermeer realleges and incorporates by reference all other paragraphs of this Complaint.

33. Kubota infringes, literally or under the doctrine of equivalents, at least claim 1 of the '266 Patent by making, using, selling, and/or offering for sale the SCL1000.

34. Kubota's actions have caused harm to Vermeer, which are not fully compensable by monetary damages.

35. Kubota's infringement has occurred with full knowledge of '266 Patent since at least May 15, 2023, and has been willful and deliberate since at least that time.

36. Kubota's past infringement has caused damage to Vermeer and its future sales will result in additional such damage.

37. A claim chart setting forth how the Accused Product satisfies the requirements of Claim 1 of the '266 Patent is attached as Exhibit H.

Count IV – Infringement of the '891 Patent

38. Vermeer realleges and incorporates by reference all other paragraphs of this Complaint.

39. Kubota infringes, literally or under the doctrine of equivalents, at least claim 1 of the '891 Patent by making, using, selling, and/or offering for sale the SCL1000.

40. Kubota's actions have caused harm to Vermeer, which are not fully compensable by monetary damages.

41. Kubota's infringement has occurred with full knowledge of the '891 Patent since at least May 15, 2023, and has been willful and deliberate since at least that time.

42. Kubota's past infringement has caused damage to Vermeer and its future sales will result in additional such damage.

43. A claim chart setting forth how the Accused Product satisfies the requirements of Claim 1 of the '891 Patent is attached as Exhibit I.

Count V – Infringement of the '063 Patent

44. Vermeer realleges and incorporates by reference all other paragraphs of this Complaint.

45. Kubota infringes, literally or under the doctrine of equivalents, at least claim 4 of the '063 Patent by making, using, selling, and/or offering for sale the SCL1000.

46. Kubota's actions have caused harm to Vermeer, which are not fully compensable by monetary damages.

47. On information and belief, Kubota's infringement has occurred with full knowledge of the '063 Patent, and has been willful and deliberate since at least September 24, 2024, when the '063 Patent issued.

48. Kubota's past infringement has caused damage to Vermeer and its future sales will result in additional such damage.

49. A claim chart setting forth how the Accused Product satisfies the requirements of Claim 4 of the '063 Patent is attached as Exhibit J.

Prayer for Relief

On motion or after a trial by jury, Vermeer requests that the Court grant the following relief:

- A. Permanently enjoin Kubota and those in active concert or participation with them from further infringing the Asserted Patents pursuant to 35 U.S.C. § 283;
- B. Enter judgment that Kubota has infringed one or more claims of each of the Asserted Patents;
- C. Enter judgment that Kubota's infringement of the Asserted Patents has been willful;
- D. Award Vermeer monetary damages in an amount sufficient to compensate Vermeer for the harm caused by Kubota's infringement, not less than a reasonable royalty for the use made of the inventions, along with pre- and post-judgment interest pursuant to 35 U.S.C. § 284;

- E. Award Vermeer enhanced damages for Kubota's infringement pursuant to 35 U.S.C. § 284;
- F. Award Vermeer supplemental monetary damages for any infringing acts after judgment and before entry of a permanent injunction;
- G. Declare this case exceptional and award Vermeer its costs, expenses, and attorneys' fees pursuant to 35 U.S.C. § 285; and
- H. Award Vermeer such other and further relief as the Court finds just and proper.

Demand for Jury Trial

Vermeer respectfully demands a jury trial on all claims and issues so triable.

Dated: December 4, 2024

Respectfully submitted,

/s/ J. Austin Franklin

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[illegible]

Civil Action No. _____

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- B. Enter judgment that Kubota has infringed one of more claims of each of the Asserted Patents;
- C. Enter judgment that Kubota's infringement of the Asserted Patents has been willful;
- D. Award Vermeer monetary damages in an amount sufficient to compensate Vermeer for the harm caused by Kubota's infringement, not less than a reasonable royalty for the

- use made of the inventions, along with pre- and post-judgment interest pursuant to 35 U.S.C. § 284;
- E. Award Vermeer enhanced damages for Kubota's infringement pursuant to 35 U.S.C. § 284;
- F. Award Vermeer supplemental monetary damages for any infringing acts after judgment and before entry of a permanent injunction;
- G. Declare this case exceptional and award Vermeer its costs, expenses, and attorneys' fees pursuant to 35 U.S.C. § 285; and
- H. Award Vermeer such other and furth relief as the Court finds just and proper.

Demand for Jury Trial

Vermeer respectfully demands a jury trial on all claims and issues so triable.

DATED: August 20, 2024

Respectfully submitted,

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