UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

DYNOCOM INDUSTRIES, INC.,	
Plaintiff,	**Civ. Action No. 2:16-cv-553**
v.	
MAINLINE AUTOMOTIVE EQUIPMENT PTY. LTD. t/a MAINLINE DYNOLOG DYNAMOMETERS; DEDICATED MOTORSPORTS SOLUTIONS, LLC; T1 RACE DEVELOPMENT; POWERFAB AUTOMOTIVE; and EFI UNIVERSITY,	**JURY TRIAL DEMANDED**
Defendants.	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Dynocom Industries, Inc. ("Dynocom"), by counsel, files this complaint against Mainline Automotive Equipment Pty. Ltd. t/a Mainline DynoLog Dynamometers ("Mainline"), and Dedicated Motorsports Solutions, LLC ("Dedicated Motorsports"), T1 Race Development, Powerfab Automotive and EFI University (collectively with Mainline "Defendants") and in support thereof, Plaintiff states as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action to enjoin the manufacture, importation, distribution, use, sales, and offers to sell by Defendants of a certain product known as DynoLog Pro Hub portable on-vehicle dynamometers ("PODs") that infringe or contribute toward the infringement of a valid

and enforceable U.S. Patent owned by Plaintiff, as well as for monetary damages for Defendants' willful infringement.

THE PARTIES

2. Plaintiff Dynocom is a corporation organized under the laws of the State of Texas with its principal place of business at 2447 Riverbend West Drive, Fort Worth, TX 76118.

3. Dynocom was founded by Paul Arseneau in 2004 with the goal of designing and manufacturing innovative chassis dynamometers. In 2006, due to high demand in the United States, Dynocom opened its Texas manufacturing facility.

4. In 2007 Plaintiff raised $2 million dollars in capital for research and development, and in 2006 opened the doors to its headquarters in Fort Worth, Texas which today is 30,000 square feet and employs over 25 people.

5. Plaintiff is the fastest growing dynamometer company in the world and Plaintiff's products have attained global support and recognition. The company has distribution in New Zealand/Australia, South Korea, South East Asia, as well as in the United States.

6. Mainline is, upon information and belief, a corporation organized under the laws of the country of Australia with its principal place of business at 16 Blackmore Road, Smeaton Grange NSW 2567, Sydney, Australia.

7. Dedicated Motorsports is, upon information and belief, an entity with a place of business in Pflugerville, TX.

8. T1 Race Development is, upon information and belief, an entity with a place of business in Rockwall, TX.

9. Powerfab Automotive is, upon information and belief, an entity with a place of business in Houston, TX.

10. EFI University is, upon information and belief, an entity with a place of business in Lake Havasu City, AZ.

JURISDICTION AND VENUE

11. This is a civil action for patent infringement arising under the United States patent statutes, 35 U.S.C. § 1, et seq.

12. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

13. Mainline is subject to this Court's personal jurisdiction because they do and have done substantial business in this judicial district, including selling and offering to sell the infringing dynamometer product in Texas and this judicial district. In addition, upon information and belief, Defendant (directly and/or through a distribution network) regularly places infringing products in the stream of commerce with the knowledge and/or understanding that such products will be sold in Texas and in this judicial district.

14. Dedicated Motorsports, T1 Race Development, Powerfab Automotive and EFI University are all subject to this Court's personal jurisdiction because, upon information and belief, they do and have done substantial business in this judicial district, including using infringing dynamometer products in Texas and this judicial district. In addition, upon information and belief, one or more of them regularly advertise services that use infringing products in the stream of commerce with the knowledge and/or understanding that such products will be sold in Texas and in this judicial district.

15. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) and (c), as well as under 28 U.S.C. § 1400(b).

THE PATENT-IN-SUIT

16. On August 13, 2013, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 8,505,374 ("'374 Patent," attached as Exhibit A), entitled "Portable On Vehicle Dynamometer" to Plaintiff.

17. Any required maintenance fees have been paid, and the '374 Patent has not expired.

18. Plaintiff is the owner by assignment of the entire right, title and interest in the '374 Patent and thus Plaintiff has standing to sue for infringement of the '374 Patent.

FACTS

19. Paul N. Arseneau ("Mr. Arseneau") is the founder of Plaintiff and the sole inventor of the '374 Patent.

20. On December 10, 2009, Mr. Arseneau filed a non-provisional application, U.S. Patent Application No. 12/635,694 (" '694 Application").

21. Mr. Arseneau assigned the '694 Application to Plaintiff.

22. The '694 Application issued as the '374 Patent on August 13, 2013.

23. The '374 Patent issued in the name of Plaintiff, Dynocom, Inc.

24. On September 5, 2013, counsel for Mainline sent a letter to Ms. Allison Blackstein, Plaintiff's Director of Sales & Marketing, demanding that Plaintiff cease advising customers of the existence of its patent and alleging infringement by Mainline.

25. Because a simple electronic search would have revealed the existence of the '374 Patent, upon information and belief, the letter dated September 5, 2013 was referring to the '374 Patent.

26. Therefore, upon information and belief Mainline had actual notice of the '374 Patent on or before September 5, 2013.

27. Plaintiff sent a letter to U.S. counsel for Mainline via certified mail, facsimile, and e-mail on September 26, 2013 requesting that Mainline cease marketing of its infringing products. The letter requested that Mainline contact Ms. Blackstein.

28. On or about December 11-13, 2014, Mr. Lewis, Mainline's President, along with several colleagues spoke with Ms. Blackstein at the Performance Racing Industries ("PRI") trade show in Indianapolis, Indiana.

29. Mainline displayed its products and was an active participant in the PRI trade show and actively marketed its infringing products within the United States. http://mainlinedyno.com.au/index.php/component/k2/item/40-pri-2014.

30. Rather than try to resolve the matter amicably, the encounter broke down when it became clear to Plaintiff that Mainline would not be willing to respect Plaintiff's intellectual property.

31. To date, despite attempts by Plaintiff to seek a resolution short of litigation, Defendants have continued to ignore requests that it cease marketing the infringing product.

32. Defendants are, among other things, manufacturing, importing, using, selling, and/or offering to sell the DynoLog Pro Hub PODs, which infringe the '374 Patent.

33. Consequently, Plaintiff's right to relief arises out of the same transaction, occurrence, and/or series of transactions or occurrences relating to the making, using, offering for sale, and/or selling the same infringing product.

COUNT I

INFRINGEMENT OF THE '374 PATENT –

DEFENDANT MAINLINE

34. Plaintiff realleges and incorporates by reference paragraphs 1 through 33 of this

Complaint as if fully set forth herein.

35. Plaintiff is the owner of the entire right, title, and interest in the '374 Patent.

36. Mainline manufactures, uses, imports, distributes, offers to sell, and/or sells in the United States one or more chassis dynamometers, that infringe the '374 Patent, at least one of which is called the "Pro Hub" POD.

37. On or about September 26, 2013, Plaintiff wrote to counsel for Mainline and requested that Mainline cease marketing the DynoLog Pro Hub PODs because it infringed the '374 Patent.

38. Mainline has infringed and continues to infringe, one or more claims of the '374 Patent by making, using, importing, offering to sell, and/or selling within the United States the DynoLog Pro Hub POD.

39. Claim 1 of the '374 Patent recites:

> A portable on vehicle dynamometer for determining power output from a drive shaft, comprising:
>
> a rigid frame;
>
> a load shaft rotatably coupled to said rigid frame;
>
> an eddy current brake having a stator connected to said rigid frame, and a rotor connected to said load shaft;
>
> a hub coupling secured to a first end of said load shaft and connected directly to the drive shaft for transferring power to the load shaft, wherein said hub coupling, said drive shaft and said load shaft co-axially rotate;
>
> said rigid frame having two outwardly extending support arms, and arm locks which secure said outwardly extending support arms in fixed

positions;

support feet assemblies mounting to respective ones of outer ends of said support arms; and

two roller assemblies mounted to a lower end of said rigid frame, providing multidirectional movement of said dynamometer.

40. As set forth on Mainline's website: (http://mainlinedyno.com.au/index.php/products/dynamometers/pro-hub-axle-shaft/pro-hub-series-chassis-dynamometers) upon information and belief, Mainline is actively making, using and selling a chassis dynamometer that incorporates each and every limitation of Claim 1 of the '374 Patent.

41. Specifically Mainline's website illustrates and describes its "PROHUB" product, which is a portable on vehicle dynamometer ("POD") and states that its "dynamometers connect to the vehicle's axle shaft hubs…" which conforms precisely to the limitation recited by claim 1 of "a hub coupling secured to a first end of said load shaft and connected directly to the drive shaft for transferring power to the load shaft… ."

42. Mainline' infringement of the '374 Patent has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for the infringement, which in no event can be less than a reasonable royalty.

43. Mainline's infringement of the '374 Patent has been willful because Mainline made, used, offered for sale, and sold infringing products after Mainline was given on actual notice and knew or should have known of such risk when it infringed the '374 Patent.

44. Plaintiff has been, and continues to be, damaged and irreparably harmed by Mainline's infringement, which will continue unless enjoined by this Court.

COUNT I

INFRINGEMENT OF THE '374 PATENT –

DEFENDANT DEDICATED MOTORSPORTS

45. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 of this Complaint as if fully set forth herein.

46. Dedicated Motorsports uses and/or employs in its business, offering to customers, the infringing DynoLog Pro Hub POD, and/or a similar apparatus, and in so doing infringes one or more claims of the '374 Patent.

47. Dedicated Motorsports' infringement of the '374 Patent has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for the infringement, which in no event can be less than a reasonable royalty.

48. Plaintiff has been, and continues to be, damaged and irreparably harmed by Dedicated Motorsports' infringement, which will continue unless enjoined by this Court.

COUNT I

INFRINGEMENT OF THE '374 PATENT –

DEFENDANT T1 RACE DEVELOPMENT

49. Plaintiff realleges and incorporates by reference paragraphs 1 through 48 of this Complaint as if fully set forth herein.

50. T1 Race Development uses and/or employs in its business, offering to customers, the infringing DynoLog Pro Hub POD, and/or a similar apparatus, and in so doing infringes one or more claims of the '374 Patent.

51. T1 Race Development's infringement of the '374 Patent has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for the infringement, which in

no event can be less than a reasonable royalty.

52. Plaintiff has been, and continues to be, damaged and irreparably harmed by T1 Race Development's infringement, which will continue unless enjoined by this Court.

COUNT I

INFRINGEMENT OF THE '374 PATENT –

DEFENDANT POWERFAB AUTOMOTIVE

53. Plaintiff realleges and incorporates by reference paragraphs 1 through 52 of this Complaint as if fully set forth herein.

54. Powerfab Automotive uses and/or employs in its business, offering to customers, the infringing DynoLog Pro Hub POD, and/or a similar apparatus, and in so doing infringes one or more claims of the '374 Patent.

55. Powerfab Automotive's infringement of the '374 Patent has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for the infringement, which in no event can be less than a reasonable royalty.

56. Plaintiff has been, and continues to be, damaged and irreparably harmed by Powerfab Automotive's infringement, which will continue unless enjoined by this Court.

COUNT I

INFRINGEMENT OF THE '374 PATENT –

DEFENDANT EFI UNIVERSITY

57. Plaintiff realleges and incorporates by reference paragraphs 1 through 56 of this Complaint as if fully set forth herein.

58. EFI University uses and/or employs in its business, offering to customers, the infringing DynoLog Pro Hub POD, and/or a similar apparatus, and in so doing infringes one or

more claims of the '374 Patent.

59. EFI University' infringement of the '374 Patent has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for the infringement, which in no event can be less than a reasonable royalty.

60. Plaintiff has been, and continues to be, damaged and irreparably harmed by EFI University's infringement, which will continue unless enjoined by this Court.

JOINDER OF PARTIES

61. Plaintiff realleges and incorporates by reference paragraphs 1 through 60 of this Complaint as if fully set forth herein.

62. On information and belief, Dedicated Motorsports, T1 Race Development, Powerfab Automotive and EFI University all purchased or otherwise acquired from Mainline infringing PODS for sale, resale, distribution to their customers (and other end users), and/or use in their respective businesses for the benefit of their customers (and other end users), that are the subject of Count I. Thus, Plaintiff's right to relief against Dedicated Motorsports, T1 Race Development, Powerfab Automotive and EFI University is asserted jointly and severally with Mainline.

63. The alleged infringements set forth in Count I arise out of the same transaction, occurrence, or series of transactions or occurrences relating to the testing, making, using, offering for sale, selling, and/or importing of Mainline PODs which are the subject of Count I.

64. Questions of fact common to all Defendants will arise in this action including, for example, infringement by, or through use of, Mainline PODs.

65. Thus, joinder of Defendants is proper in this litigation pursuant to 35 U.S.C. § 299(a).

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief against Defendants:

A. A judgment that the '374 Patent is duly and legally issued, valid, and enforceable;

B. A judgment holding Defendants liable for infringement of the '374 Patent;

C. A temporary restraining order, preliminary injunction, and permanent injunction against Defendants, their officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '374 Patent, including without limitation, an injunction against offers for sale and future sales of the infringing product;

D. An accounting for damages and an award of compensatory damages resulting from Defendants' infringement of the '374 Patent, together with pre-judgment and postjudgment interest;

E. A judgment holding that Defendants' infringement of the '374 Patent is willful and a trebling of damages pursuant to 35 U.S.C. § 284;

F. A judgment holding that this action is an exceptional case and an award to Plaintiff for its attorney's fees and costs pursuant to 35 U.S.C. § 285 and other authority;

G. A judgment that Plaintiff be awarded its costs incurred herein; and

H. Such other relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff hereby demands trial by jury.

Dated: May 24, 2016

Respectfully submitted,

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