

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

FALCON INDUSTRIES, INC)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:10-cv-00046
)	
AUSTIN PRECISION PRODUCTS, INC)	
d/b/a LARUE TACTICAL,)	
)	
Defendant)	

COMPLAINT

The plaintiff, Falcon Industries, Inc (“Falcon”), brings this action against defendant, Austin Precision Products, Inc. d/b/a LaRue Tactical (“LaRue”)for patent infringement. By this Complaint, Falcon seeks, *inter alia*, injunctive relief and monetary damages and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Falcon is a New Mexico corporation with its principal place of business in Moriarty, New Mexico. Falcon is engaged in the business of developing, manufacturing, and marketing specialty products.
2. Upon information and belief, LaRue is a Texas corporation with its principal place of business located at 850 County Road 177, Leander, Texas.
3. LaRue manufactures, markets and sells small arms accessories.

4. Upon information and belief, LaRue has sold and continues to sell its products into New Mexico and throughout the United States through several channels, such as retailers, distributors, mail order catalogs and over the internet.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
6. This Court has personal jurisdiction over LaRue because, upon information and belief, LaRue's infringing products are distributed in New Mexico.
7. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

BACKGROUND

8. On April 27, 2004, United States Patent No. 6,725,594 entitled "Rail cover for firearm rail systems" ("the '594 patent") was issued naming Stephen Charles Hines as inventor. A copy of the '594 patent is attached as Exhibit A.
9. The '594 patent is assigned to Falcon.
10. On information belief, LaRue produces, markets, sells, and distributes IndexClips. The IndexClips are marketed as "Rail Covers" and LaRue suggests that "Several clips in a row can be used to protect a length of rail". Selections of LaRue's marketing materials are attached as Exhibit B and Exhibit C.
11. LaRue's Index Clips infringe claims 1, 2, 3, 7, 8, 12, 13, 14, 18, and 19 of U.S. Patent No. 6,725,594. A claim chart detailing the infringement is attached as Exhibit D.
12. Falcon wrote to LaRue demanding that it immediately cease and desist production, marketing, and sale of IndexClips.

13. LaRue conducted its wrongful acts without authorization or license.

COUNT I
Infringement of the '594 Patent – 35 U.S.C. §271

14. Falcon re-alleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 13, inclusive, as set forth above.

15. Falcon has suffered substantial damage as a result of Defendant's infringement of the '594 patent including, but not limited to, loss of sales of its own rail covers and loss of value of its patent.

16. Falcon is entitled to an accounting of LaRue's profits derived from the sale of IndexClips.

REQUEST FOR RELIEF

WHEREFOR, Falcon respectfully requests an entry of judgment in its favor against LaRue and requests that:

A) LaRue be adjudged to have infringe the '594 patent and that such infringement be adjudged to have been willful;

B) LaRue to be enjoined from further infringement of Falcon's intellectual property;

C) Falcon be awarded damages in an amount no less than a reasonable royalty for LaRue's infringement of the '594 patent;

D) Falcon be awarded treble damages pursuant to 35 U.S.C. 284 because of the willful nature of LaRue's acts;

E) Falcon be awarded prejudgement interest; and

F) Falcon to be awarded such other and further relief as the Court may deem just and proper.

Dated January 15, 2010

Respectfully Submitted,

Ortiz and Lopez, PLLC

Electronically Filed

By: /s/ Luis M. Ortiz

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