

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CINPRES GAS INJECTION LTD.,

Plaintiff,

v.

BMW OF NORTH AMERICA, LLC,
a Delaware limited liability company,

Defendant.

Case No. _____

COMPLAINT FOR PATENT INFRINGEMENT
AND JURY DEMAND

I. THE PARTIES

1. Plaintiff CINPRES GAS INJECTION LTD., is a United Kingdom company, having an address at Prosperity Court, Prosperity Way, Middlewich, Cheshire CW10 0GD United Kingdom ("CINPRES").

2. Defendant, BMW of North America, LLC ("BMW NA"), is a Delaware limited liability company, having an address at 300 Chestnut Ridge Road, Woodcliff, NJ 07675.

3. Defendant BMW NA is qualified to do business in the State of Michigan under ID No. B93291, and has appointed The Corporation Company, 30600 Telegraph Road, Bingham Farms, Michigan 48025, as its registered agent for service of process.

II. JURISDICTION

4. The federal claims pleaded herein arise under the Patent Act, 35 U.S.C. § 1 *et seq.*

5. Subject matter jurisdiction for the federal claims is conferred upon the Court by 28 U.S.C. § 1338(a).

III. PATENT INFRINGEMENT

6. On October 17, 1995, U.S. Patent No. 5,458,846 (“the ‘846 patent”) was duly and lawfully issued to Robert E. Carroll for “Method Of Injection Molding.” A true and correct copy of the ‘846 patent is at Exhibit A.

7. CINPRES is the owner by assignment of the ‘846 patent, as evidenced by the records of the Assignment Branch of the United States Patent and Trademark Office.

8. On July 1, 1997, U.S. Patent No. 5,643,527 (“the ‘527 patent”) was duly and lawfully issued to Robert E. Carroll for “Method Of Injection Molding.” A true and correct copy of the ‘527 patent is at Exhibit B.

9. CINPRES is the owner by assignment of the ‘527 patent, as evidenced by the records of the Assignment Branch of the United States Patent and Trademark Office.

10. On April 4, 2004, U.S. Patent No. 6,716,387 (“the ‘387 patent”) was duly and lawfully issued to Ronald Thomas for “Process For Pressure Assisted Molding Of Hollow Articles.” A true and correct copy of the ‘387 patent is at Exhibit C.

11. CINPRES is the owner by assignment of the ‘387 patent, as evidenced by the records of the Assignment Branch of the United States Patent and Trademark Office.

12. Upon information and belief, subject to the procedure of 35 U.S.C. § 295 and other case investigation and discovery, BMW NA sells, and offers to sell within the United States, plastic articles molded by an external gas molding process covered by one or more of the claims of the ‘846 patent and the ‘527 patent, without authority of CINPRES, in violation of 35 U.S.C. § 271(a), including, but not limited to the BMW X5 Mirror Housing, P/N 51 167 180 726.

13. Upon information and belief, subject to the procedure of 35 U.S.C. § 295 and other case investigation and discovery, BMW NA sells, and offers to sell within the United States, plastic articles molded by a pressurized gas molding process covered by one or more of the claims of the '387 patent, without authority of CINPRES, in violation of 35 U.S.C. § 271(a), including, but not limited to the 2011 BMW Mini Cooper Rear Quarter Map Pocket, P/N 51-43-2-756-057.

14. Exhibits D - H are photographs of an exemplar of the BMW X5 Mirror Housing, P/N 51 167 180 726.

15. Exhibits D - H show "fingerprints" on the back of the BMW X5 Mirror Housing, P/N 51 167 180 726, indicative of the use of external gas molding.

16. Exhibits I and J are preliminary infringement claim charts showing a substantial likelihood that the BMW X5 Mirror Housing, P/N 51 167 180 726 was molded by an external gas molding process covered by claim 10 of the '527 patent and claim 1 of the '846 patent.

17. Exhibit K is a photograph of an exemplar BMW Mini Cooper Rear Quarter Map Pocket, P/N 51-43-2-756-057, showing "fingerprints" indicative of the use of the pressurized gas molding process.

18. Exhibit L is a preliminary infringement claim chart showing a substantial likelihood that the BMW Mini Cooper Rear Quarter Map Pocket, P/N 51-43-2-756-057 was molded by a pressurized gas molding process covered by claim 12 of the '387 patent.

19. CINPRES has been harmed, both pecuniarily and irreparably, by the infringing conduct of defendants.

20. BMW NA's infringing conduct will continue unless enjoined by the Court.

IV. DEMAND FOR RELIEF

WHEREFORE, CINPRES demands entry of judgment against BMW NA granting relief as follows:

- A. A determination that BMW NA has infringed '846 patent, the '527 patent, and the '387 patent by the acts complained of herein;
- B. An award of damages adequate to compensate for such infringement;
- C. An enhancement of the compensatory damages, up to three (3) times, if such infringement is found to have been willful;
- D. A determination that this case is "exceptional," in the sense of 35 U.S.C. § 285;
- E. An order preliminarily and permanently enjoining BMW NA, its officers, agents, servants, employees, contractors, suppliers and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from committing further acts of infringement of the '846 patent, the '527 patent and the '387 patent;
- F. An award in favor of CINPRES, and against BMW NA, for the costs incurred in bringing and maintaining this action, including reasonable attorneys' fees; and
- G. Such other, further, and different relief as may be just and equitable on the proofs.

V. JURY DEMAND

Plaintiff CINPRES demands trial by jury for all issues so triable.

Respectfully submitted,

BROOKS KUSHMAN P.C.

Dated: November 11, 2011

/s/ Robert C.J. Tuttle
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