

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
EASTERN DIVISION**

NUHN INDUSTRIES LTD.

Plaintiff,

v.

BAZOOKA FARMSTAR, LLC

Defendant.

CASE NO.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Nuhn Industries Ltd. (“Nuhn” or “Plaintiff”), for its Complaint against Defendant Bazooka Farmstar, LLC (“Bazooka” or “Defendant”), alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under 35 U.S.C. § 271, *et. seq.*, by Nuhn against Defendant for infringement of United States Patent No. 11,358,425 (“the ‘425 Patent” or “the Patent-in-Suit”) by making, using, selling, and/or offering to sell the “Wolverine Agitation Boat” in the United States.

PARTIES

2. Nuhn is a corporation organized and existing under the laws of the province of Ontario, Canada, having a principal place of business at 4816 Line 34, Sebringville, ON N0K 1X0 Canada.

3. Among numerous other products, Nuhn markets an amphibious pumping vehicle for use in agitating manure lagoons, that is known as the Lagoon Crawler. The Lagoon Crawler is covered by claims of the Patent-in-Suit.



4. Nuhn has sold the Lagoon Crawler to customers within Iowa.

5. On information and belief, Bazooka is a limited liability company organized and existing under the laws of the state of Iowa, having a principal place of business at 800 E. 7th Street, Washington, IA 52353. On information and belief, Bazooka is registered to do business in the State of Iowa and may be served through its registered agent Scott Szymanek at 800 E. 7th Street, Washington, IA 52353.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over the matters asserted in this Complaint under 28 U.S.C. §§ 1331 and 1338(a) because the claims herein arise under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. § 271.

7. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction, due at least to Defendant being an Iowa limited liability company having its principal place of business in the State of Iowa and to Defendant's substantial business in this forum, including at least because Defendant has infringed the Patent-in-Suit directly and/or indirectly in this District. Defendant regularly transacts business in the State of Iowa and within

this District. Defendant engages in other persistent courses of conduct and derives substantial revenue from products and/or services in the State of Iowa and this District, and has purposefully established substantial, systematic, and continuous contacts within this District and should reasonably expect to be sued in a court in this District.

8. On information and belief, this Court has personal jurisdiction over Defendant because it has committed acts of patent infringement and/or contributed to and/or induced acts of patent infringement by others in the State of Iowa and in this District. On information and belief, Defendant directly has made, used, offered to sell, sold, and/or advertised (including through websites) in the United States, including to customers located within the State of Iowa and this District products that infringe one or more claims of the Patent-in-Suit. On information and belief, Defendant has purposefully and voluntarily placed the infringing products into the stream of commerce with the awareness, expectation, and/or intent that they will be purchased by consumers in the State of Iowa and in this District.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c) and 1400(b). Defendant resides in this District. Defendant is a limited liability company organized and existing under the laws of the State of Iowa and has a principal place of business in the State of Iowa and in this District. Additionally, Defendant has a regular and established place of business in this District. On information and belief, Defendant has committed, and continues to commit, acts of direct and indirect infringement in this District by, among other things, making, using, offering to sell, and selling products that infringe the Patent-in-Suit in this District.

NUHN'S LEGACY OF INNOVATION

10. Nuhn is a family-owned business that was founded in 1902 as Nuhn Welding & Manufacturing in Wartburg, Ontario, Canada. Initially, the business specialized in making

horseshoes.

11. Since its founding, Nuhn has consistently adapted to changing needs in the farming industry, creatively providing solutions to that industry. For example, in 1965, Dennis Nuhn made the company's first liquid manure spreader. The spreader was fabricated from an old gas tank with airplane tires.

12. Nuhn's legacy of creativity has led to the development of a broad patent portfolio consisting of innovative, unique designs related to the liquid manure handling industry. The first such patent was an innovative dual tanker design that allows farmers to increase loads by up to 70%, with greater ease of handling.

13. An additional patented innovation is an alley vacuum that allows for the cleanup of manure in dairy barns. The inventions described and claimed in these patents have revolutionized how dairy barns are made and how liquid manure is handled.

14. As yet another example, Nuhn developed a multi-pump outlet that enables 30% more volume with the same horsepower as a conventional pump. This patented innovation has taken over the industry given the time savings, fuel savings, and better performance.

15. This lawsuit concerns another significant innovation from Nuhn, its Lagoon Crawler amphibious agitation vehicle, which is covered by the claims of the Patent-in-Suit.

16. Prior to this innovation, in 2009-2010 the best solution for pumping out a manure lagoon was an agitator that required a long pump driven by a tractor along the bank of a lagoon. Depending on the size of the lagoon, as many as four pump/tractor combinations were required to adequately mix the lagoon, and not leave any solids behind. To the extent this pump/tractor method was not sufficiently effective, lagoon operators would be required to scoop out residual solids from the pit.

17. While other agitation boat devices were introduced to the market, they had numerous drawbacks that the Patent-in-Suit overcame. For example, the Lagoon Crawler made it easier for the vehicle to enter and exit the lagoon. A typical lagoon has a berm that requires navigation both up and then back down. Prior art designs required a trailer to launch the boat. Compounding this difficulty was the fact that the terrain around a lagoon is often muddy and wet. Indeed, a typical problem with the prior art boats was that they would get stuck on the bank or enter the lagoon too quickly and nosedive under the liquid.



18. Relatedly, prior art designs were often ineffective in exiting the lagoon, either because they got stuck in the mud at the bottom of the lagoon or got stuck on “islands” of solid buildup in the lagoon. This could lead to safety concerns when a tractor used chains to pull the boat from the lagoon. If the boat was stuck in the mud, the chains were known to break, endangering the drivers of the tractors.

19. The inventions of the Patent-in-Suit solved these considerable deficiencies in the

prior art designs. As an all-terrain, amphibious vehicle, the Nuhn inventions allowed for superior agitation without fear of the vehicle becoming stuck either on the lagoon floor or islands of solid waste that may have formed. Indeed, the Lagoon Crawler, which is a commercial embodiment of the inventions claimed in the Patent-in-Suit, was an instant success leading to significant commercial success, as well as copying by Defendant.

THE PATENT-IN-SUIT

20. On June 14, 2022, U.S. Patent No. 11,358,425, entitled “Amphibious Pumping Vehicle,” was duly and legally issued by the United States Patent and Trademark Office. A true and accurate copy of the ‘425 Patent is attached hereto as Exhibit 1.

THE WOLVERINE SERIES AGITATION BOAT

21. Upon information and belief, in early 2021, Bazooka began marketing its Wolverine Series Agitation Boat. *See* May 13, 2021, video published on YouTube.com (<https://www.youtube.com/watch?v=ehAHKL442as>).

22. The Wolverine Series Agitation Boat is marketed as a floating vehicle that can be driven into a manure lagoon in view of four “large diameter, aggressive tires [that] make climbing out of steep banks effortless.” (<https://bazookafarmstar.com/wolverine-series/>; https://www.bazookafarmstar.com/wp-content/uploads/2021/04/IMG_3795-Edited-2-1024x683.jpg).



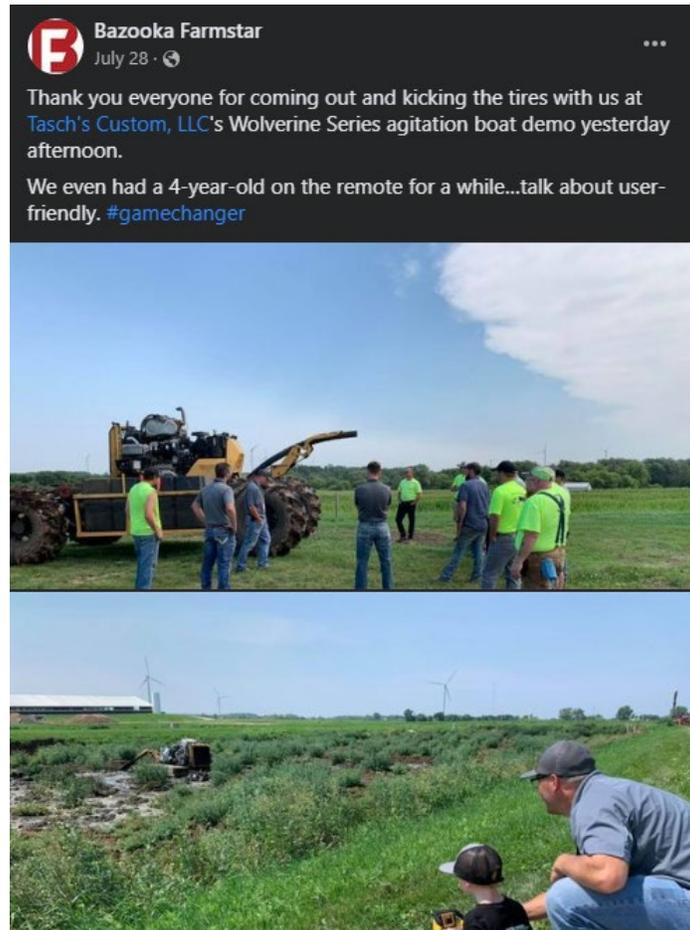
23. The Wolverine Series Agitation Boat also includes a fluid pump for pumping liquid manure. The pump is powered by a power source. (https://bazookafarmstar.com/wp-content/uploads/2021/05/IMG_3850-straightened-1024x683.jpg).



24. Lastly, Bazooka advertises that the Wolverine Series Agitation Boat is controllable by a remote control. (<https://bazookafarmstar.com/wp-content/uploads/2021/04/GOPR1101-1620x1080.jpg>).



25. Upon information and belief, Bazooka has made, used, sold, and/or offered for sale the Wolverine Series Agitation Boat.



(<https://www.facebook.com/bazookafarmstar>)

DEFENDANT'S KNOWLEDGE OF THE PATENT-IN-SUIT

26. On June 14, 2022, Defendant was notified of its infringement of the '425 Patent by email seeking consent to a Motion for Leave to file a Third Amended Complaint in Civil Action No. 3:22-cv-00015-SMR-HCA currently stayed in this District between the parties.

CAUSE OF ACTION

(Infringement of the '425 Patent by Defendant)

27. Nuhn incorporates by reference and realleges each and every allegation of the previous paragraphs as if set forth herein.

28. Nuhn owns all substantial right, title, and interest in and to the '425 Patent, including the sole and exclusive right to prosecute this action and enforce the '425 Patent against infringers, and to collect damages for all relevant times.

29. The '425 Patent generally describes an amphibious vehicle that is equipped for pumping, including the pumping of liquid manure, such as animal manure contained in a farm lagoon.

30. The written description of the '425 Patent describes in technical detail each of the limitations of the claims, allowing a skilled artisan to understand the scope of the claims and how the non-conventional and non-generic combination of claim limitations is patentably distinct from and improved upon what may have been considered conventional or generic in the art at the time of the invention.

31. Defendant has made, used, sold, and/or offered for sale products, including its Wolverine Series Agitation Boat, that infringe one or more claims of the '425 Patent.

32. As set forth in the attached non-limiting claim chart (Exhibit 2), upon information

and belief, Defendant, without authorization or license from Nuhn, has directly infringed and continues to directly infringe at least Claim 1 of the '425 Patent, either literally or under the doctrine of equivalents, by making, having made, using, distributing, selling, and/or offering for sale the Wolverine Series Agitation Boat.

33. Nuhn has been damaged as a result of the infringing conduct by Defendant alleged above. Thus, Defendant is liable to Nuhn in an amount that compensates it for such infringement, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

34. Defendant's infringement of the '425 Patent has caused, and will continue to cause, Nuhn to suffer substantial and irreparable harm.

35. Nuhn is entitled to injunctive relief in accordance with 35 U.S.C. § 283.

36. Defendant has been aware that it infringes the '425 Patent since at least June 14, 2022. Since obtaining knowledge of its infringing activities, Defendant has failed to cease its infringing activities.

37. Defendant's infringement of the '425 Patent is, has been, and continues to be, willful, intentional, deliberate, and/or in conscious disregard of Nuhn's rights under the patent, justifying a trebling of damages under 35 U.S.C. § 284.

38. Defendant's infringement is exceptional and entitles Nuhn to attorneys' fees and costs under 35 U.S.C. § 285.

39. Nuhn complies with the marking requirements of 35 U.S.C. § 287 with respect to the '425 Patent.

PRAYER FOR RELIEF

Wherefore, Nuhn respectfully requests that the Court enter judgment in its favor and against Defendant on the patent infringement claims set forth above and respectfully requests that this Court:

- (a) enter judgment that, under 35 U.S.C. §§ 271(a) and (b), Defendant has directly infringed at least one claim of the Patent-in-Suit;
- (b) in accordance with 35 U.S.C. § 283, enjoin Defendant, and all affiliates, employees, agents, officers, directors, attorneys, successors, and assigns and all those acting on behalf of or in active concert or participation with Defendant, preliminarily and permanently from infringing the Patent-in-Suit;
- (c) award Nuhn all available and legally permissible damages and relief sufficient to compensate Nuhn for Defendant's infringement of the Patent-in-Suit, including to the full extent permitted by 35 U.S.C. § 284, together with interest, in an amount to be determined at trial;
- (d) award Nuhn treble damages under 35 U.S.C. § 284 as a result of Defendant's willful and deliberate infringement of the Patent-in-Suit;
- (e) declare this to be an exceptional case under 35 U.S.C. § 285 and award Nuhn costs, expenses, and disbursements in this action, including reasonable attorneys' fees; and
- (f) award Nuhn such other and further relief that this Court deems just and proper.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Nuhn hereby demands a trial by jury on all issues triable of right by a jury.

Date: July 20, 2022

/s/ Brandon R. Underwood

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