

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

**DANFOSS POWER SOLUTIONS INC.,**

Plaintiff,

**Civil Action No. 0:16-cv-3111 PJS/TNL**

v.

**DELTATECH CONTROLS**

**JURY TRIAL DEMANDED**

Defendant.

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

This is an action for patent infringement in which Plaintiff, Danfoss Power Solutions Inc. (hereinafter “Danfoss Power Solutions”) complains against Defendant DeltaTech Controls (hereinafter “DeltaTech”) and alleges as follows:

**PARTIES**

1. Danfoss Power Solutions is a Delaware corporation having its principal place of business at 2800 E 13<sup>th</sup> Street, Ames, IA 50010. Danfoss Power Solutions’ parent company is Danfoss A/S, a corporation incorporated under the laws of Denmark, and having its principle office at Nordborgvej 81, DK-6430 Nordborg, Denmark.

2. Upon information and belief, DeltaTech is a corporation organized under the laws of Germany, and is headquartered at Freiheit 8 13597, Berlin, Germany. Upon information and belief, DeltaTech has a sales and design office at 5288 Valley Industrial Blvd. S, Shakopee, MN 55379.

**JURISDICTION AND VENUE**

3. This Court has original subject matter jurisdiction over the claims in this action pursuant to 28 U.S.C. § 1331 (federal question) and § 1338 (patents).

4. DeltaTech is subject to personal jurisdiction in this Court. In particular, this Court has personal jurisdiction over DeltaTech because it has engaged in such continuous, systematic, and substantial activities within this State, including substantial marketing, design, and sales of products in this State and in this judicial district. Furthermore, upon information and belief, this Court has personal jurisdiction over DeltaTech in this case because DeltaTech has committed acts giving rise to Danfoss Power Solutions' claim for patent infringement within and directed to this judicial district.

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

### **BACKGROUND**

6. Danfoss Power Solutions is an innovative company that designs, manufactures, and markets engineered hydraulic and electronic systems and components for use primarily in heavy equipment, such as heavy-duty vehicles for the construction, agriculture, and other off-highway vehicle markets.

7. Danfoss Power Solutions protects its intellectual property in a variety of ways, including by obtaining patents on its inventive technology. Danfoss Power Solutions sold joystick devices covered by its patent to Bobcat Company, but Danfoss Power Solutions has lost all sales and is no longer able to sell such products because of Defendant's infringement. Such products are novel joystick devices used for the control and operation of heavy equipment.

8. DeltaTech is a competitor of Danfoss Power Solutions and is also in the business of manufacturing and selling devices including, but not limited to, joystick devices for use with heavy equipment.

9. Upon information and belief, DeltaTech monitors patent literature, including issued patents and published patent applications related to joystick devices for heavy equipment.

**DANFOSS POWER SOLUTIONS' PATENT**

10. Heavy equipment, such as lift trucks, agriculture vehicles, and other off-road vehicles, are commonly controlled by a joystick device. Danfoss Power Solutions has obtained a patent relating to a novel joystick device.

**U.S. Patent No. 7,456,828**

11. On November 25, 2008, the U.S. Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,456,828 ("the '828 Patent"), entitled "Joystick Device." A true and correct copy of the '828 Patent is attached hereto as **Exhibit 1**.

12. The '828 Patent names Joseph J. Schottler and James D. Ryken as inventors.

13. Danfoss Power Solutions is the owner by assignment of all rights, title and interest in the '828 Patent.

14. The '828 Patent generally relates to, *inter alia*, a novel joystick device.

**COUNT I**  
**(DIRECT INFRINGEMENT OF U.S. PATENT NO. 7,456,828 BY DELTATECH)**

15. Danfoss Power Solutions incorporates by reference all of the preceding paragraphs as though fully set forth herein.

16. The '828 Patent remains valid, enforceable, and unexpired.

17. DeltaTech is directly infringing and has directly infringed the '828 Patent in violation 35 U.S.C. § 271(a), including, without limitation, by making, using, selling, offering for sale, and/or importing, without license or authority, a joystick device covered by at least one claim of the '828 Patent, including, but not limited to, DeltaTech's joystick devices having an AJ4 Base and a JSC Grip, a combination which, upon information and belief, is present on

various machines offered for sale by Bobcat Company. Upon information and belief, an example JSC Grip is pictured in **Exhibit 2** and an AJ4 Base is pictured in **Exhibit 3**.

18. In particular, DeltaTech is directly infringing and has directly infringed at least Claim 1 of the '828 Patent. Claim 1 relates to, among other things, a joystick device including a base and a grip pivotally connected to the base. '828 Patent at Claim 1. The base includes a first microprocessor, and the grip includes a second microprocessor. *Id.* The joystick device further includes an interconnect device allowing the first and second microprocessors to communicate with one another. *Id.* The first microprocessor of the base is in electronic communication with a main electronic controller. *Id.* As illustrated in **Exhibit 2**, the JSC Grip includes a microprocessor. Additionally, based upon the data sheet in **Exhibit 3**, the AJ4 Base includes is a CAN interface, and therefore a microprocessor is also included in the AJ4 Base. Further, upon information and belief, the grip microprocessor communicates signals to the base microprocessor such that appropriate signals can be sent to a main controller for the vehicle.

19. DeltaTech's infringement of the '828 Patent is and has been willful and deliberate.

20. Upon information and belief, DeltaTech has knowledge of the '828 Patent and that its actions infringed the '828 Patent for at least the reason that DeltaTech has knowledge of patents related to the joystick device industry in general and would be aware of the '828 Patent.

21. At the very least, based on DeltaTech's knowledge of Danfoss Power Solutions' patent portfolio in general, and its knowledge that Danfoss Power Solutions is a direct competitor in the relatively small joystick device market, DeltaTech believed that there was a high probability that its acts, if taken, would result in direct infringement.

22. DeltaTech knew of the '828 Patent, acted despite an objectively high likelihood that its actions constituted infringement of a valid patent, knew or should have known of this likelihood, and ignored and/or disregarded that its actions constituted infringement of this valid and enforceable patent.

23. Danfoss Power Solutions and DeltaTech are competitors. Danfoss Power Solutions has suffered substantial damages and will suffer severe and irreparable harm as a result of DeltaTech's infringement, unless that infringement is enjoined by this Court. The threatened injury to Danfoss Power Solutions outweighs any harm that an injunction may cause to DeltaTech. Injunctive relief would not disserve the public interest under these circumstances.

**COUNT II**  
**(CONTRIBUTORY INFRINGEMENT OF U.S. PATENT NO. 7,456,828)**

24. Danfoss Power Solutions incorporates by reference all of the preceding paragraphs as though fully set forth herein.

25. Upon information and belief, with knowledge of the '828 patent, DeltaTech has contributed to and continues to contribute to the infringement of the '828 patent under 35 U.S.C. § 271(c) by selling, offering to sell, or importing its joystick device for use by its customers in a machine, such as a Bobcat machine, that includes a main electronic controller.

26. DeltaTech's customers directly infringe the '828 patent by using the joystick device in a machine that includes a main electronic controller.

27. The DeltaTech joystick device has no substantial non-infringing use.

28. The DeltaTech joystick device constitutes a material part of the invention of the '828 patent.

29. DeltaTech knows that the accused DeltaTech joystick device is especially made or especially adapted for use in an infringement of the '828 patent for at least the reason that the

joystick device is advertised, sold, or offered for sale only for use within a machine including a main electronic controller, as covered by the '828 patent.

30. DeltaTech has knowledge of the '828 patent and its customers' use of the accused joystick device in directly infringing the claims of the '828 patent.

31. As a result of DeltaTech's contributory infringement, Danfoss Power Solutions has suffered substantial damages.

32. Danfoss Power Solutions will suffer severe and irreparable harm unless DeltaTech's infringement is enjoined by this Court. The threatened injury to DeltaTech outweighs any harm that an injunction may cause to DeltaTech and injunctive relief would not disserve the public interest in these circumstances.

**COUNT III**  
**(INDUCED INFRINGEMENT OF U.S. PATENT NO. 7,456,828)**

33. Danfoss Power Solutions incorporates and re-alleges all of the preceding paragraphs as though each were fully set forth herein.

34. Upon information and belief, with knowledge of the '828 patent, DeltaTech has induced and continues to induce the infringement of the '828 patent under 35 U.S.C. § 271(b) by selling, offering to sell, or importing the DeltaTech joystick device for use by its customers.

35. DeltaTech's customers directly infringe by using the DeltaTech joystick device to manufacture, sell, offer to sell, or import machines, such as Bobcat machines, including DeltaTech's joystick device and a main electronic controller.

36. DeltaTech specifically intended its customers to infringe at least claim 1 of the '828 patent and knew that its customers' acts constituted infringement. Despite a high likelihood that its actions would induce its customers' direct infringement of the '828 patent, DeltaTech marketed and sold its joystick device to its customers to practice the claimed invention.

DeltaTech's customers directly infringe the '828 patent by incorporating DeltaTech's joystick device into a machine having a main electronic controller.

37. DeltaTech knew that its customers' actions, when performed, would directly infringe the '828 patent.

38. Upon information and belief, despite having knowledge of the '828 patent, DeltaTech continues to actively induce infringement of the '828 patent by continuing to promote the infringing DeltaTech joystick device. DeltaTech intended its customers to directly infringe the '828 patent, or at the very least, were willfully blind to the fact that DeltaTech's customers' use of the DeltaTech rail would directly infringe the '828 patent.

39. As a result of DeltaTech's induced infringement of the '828 patent, Danfoss Power Solutions has suffered substantial damages.

40. Danfoss Power Solutions will suffer severe and irreparable harm unless DeltaTech's infringement is enjoined by this Court. The threatened injury to Danfoss Power Solutions outweighs any harm that an injunction may cause to DeltaTech and injunctive relief would not disserve the public interest in these circumstances.

#### **PRAYER FOR RELIEF**

WHEREFORE, Danfoss Power Solutions requests judgment in its favor against DeltaTech for the following relief:

A. A judgment in favor of Plaintiff that DeltaTech has directly infringed the '828 Patent;

B. A preliminary and permanent injunction enjoining DeltaTech, its officers, directors, agents, servants, employees and those persons in active concert or participation with DeltaTech, from infringing the '828 Patent in violation of 35 U.S.C. § 271;

C. An award of damages adequate to compensate Plaintiff for DeltaTech's infringement, including lost profits, and a reasonable royalty;

D. An order adjudging DeltaTech to have deliberately and willfully infringed the '828 Patent and trebling, or otherwise increasing, Plaintiff's damages under 35 U.S.C. § 284;

I. A judgment in favor of Plaintiff that this is an exceptional case;

J. An award to Plaintiff of its attorney fees and its costs and expenses incurred in connection with this action pursuant to 35 U.S.C. § 285;

K. An award of prejudgment and post-judgment interest and costs of this action; and

L. Such other and further relief that this Court deems just and proper.

**JURY DEMAND**

Danfoss Power Solutions demands a trial by jury on all issues so triable.

Respectfully submitted,

Dated: 11/23/2016

By: s/Jessica M. A. Thomas  
David R. Fairbairn (28,125)  
Jessica M. A. Thomas (395,245)  
KINNEY & LANGE, P.A.  
The Kinney & Lange Building  
312 South Third Street  
Minneapolis, MN 55415-1002  
Email: drfairbairn@kinney.com  
jthomas@kinney.com  
Telephone: (612) 339-1863  
Facsimile: (612) 339-6580

Theodore W. Olds, III (admitted *pro hac vice*)  
Brian S. Tobin (admitted *pro hac vice*)  
Timothy J. Murphy (admitted *pro hac vice*)  
Carlson, Gaskey & Olds, P.C.  
400 W. Maple, Ste. 350  
Birmingham, MI 48009



Tel: (248) 988-8360  
tolds@cgolaw.com  
btobin@cgolaw.com  
tmurphy@cgolaw.com

***Counsel for Danfoss Power Solutions Inc.***