

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

WILLIAM D. FONDRIEST,	§	
	§	
Plaintiff,	§	Civil Action No. _____
vs.	§	
	§	
CHIPPEWA AEROSPACE, INC.	§	
	§	JURY TRIAL DEMANDED
Defendant.	§	

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**COMPLAINT**

Plaintiff William D. Fondriest brings this action against Defendant Chippewa Aerospace, Inc., and for his causes of action alleges:

**THE PARTIES**

1. Plaintiff William D. Fondriest ("Fondriest") is an individual residing in Deland, Volusia County, Florida.

2. Upon information and belief, defendant Chippewa Aerospace, Inc. ("Chippewa") is a corporation organized and existing under the laws of the State of South Carolina with its principal place of business in Horry County, South Carolina at one of 1601 Executive Avenue; Myrtle Beach, South Carolina 29577 or 490-A Allied Drive, Conway, South Carolina 29526.

**THE PATENT**

3. On November 14, 2006, United States Patent No. 7,135,790, entitled "Modular Electrical Harness for Jet Aircraft Landing Gear Systems" was duly and legally issued ("the '790 patent"). A true and correct copy of the '790 patent is attached as **Exhibit A.**

4. On March 8, 2011, an *Ex Parte* Reexamination Certificate issued for the ‘790 patent (hereafter, “the ‘790 patent” shall refer to the ‘790 patent as reexamined). A true and accurate copy of the *Ex Parte* Reexamination Certificate is attached as **Exhibit B**.

5. Pursuant to 35 U.S.C. § 282, the ‘790 patent is presumed valid, as reexamined.

6. Plaintiff Fondriest is the owner of the entire right, title, and interest in the ‘790 patent, including the right to recover damages for past, present, and future infringement.

#### **PRIOR ACTION**

7. Fondriest brought an action against Chippewa for infringement of the ‘790 patent on July 21, 2011 in the United States District Court for the Middle District of Florida, Orlando Division, Civil Action No. 6:11-CV-1206-ORL-35-KRS. Chippewa filed a motion contesting personal jurisdiction in that action (Doc. 14).

8. After the parties submitted their Joint Claim Construction Brief (Doc. 56), the Court dismissed that action in March of 2012, granting Chippewa’s motion contesting personal jurisdiction in Florida (Docs. 59 and 60).

#### **JURISDICTION AND VENUE**

9. This action arises under the patent laws of the United States, Title 35 United States Code, particularly §§ 271 and 281. This Court has subject matter jurisdiction over the claim for patent infringement under 28 U.S.C. §§ 1331 and 1338(a). This Court otherwise would have diversity jurisdiction under 28 U.S.C. § 1332.

10. Personal jurisdiction exists generally over Defendant Chippewa, because Chippewa maintains its principal place of business in this District and thus has sufficient

minimum contacts with the forum as a result of business conducted here. Personal jurisdiction also exists specifically over Chippewa, because it, directly or through subsidiaries or intermediaries, makes, uses, offers for sale, or sells products or services within the State of South Carolina and within this District, that infringe the patent-in-suit.

11. Venue is proper in this Court under 28 U.S.C. §§ 1391 (b) and (c) and 28 U.S.C. § 1400(b), because Chippewa's principal place of business is in this District.

### **PATENT INFRINGEMENT COUNT**

12. Defendant Chippewa has been and is now making, using, selling, and/or offering for sale within the United States products that infringe at least claims 1, 2, 3, 4, 6, 7, 8, 9 of the '790 patent, including for example and without limitation landing gear harness modifications for various aircraft including the Main Landing Gear Harness Assemblies (inboard Part No. 601-3260-300-101, Outboard Part No. 601-3260-300-103), as well as any other devices that involve modular landing gear harness systems using the modular scheme and connectors as described and claimed in the '790 patent.

13. By making, using, selling, and/or offering to sell the aforementioned products, Chippewa has directly infringed, either literally or by equivalents, the '790 patent.

14. Chippewa was placed on notice of its infringement at least as early as December 24, 2009, through a letter advising of the '790 patent and the infringing products. Chippewa was further placed on notice of its infringement in connection with the prior action in Florida.

15. In addition to Chippewa's direct infringement of the '790 patent, Chippewa is liable for actively inducing direct infringement by its distributors, retailers, and end-users who sell, offer for sale, purchase, and/or use the aforementioned products.

Chippewa has had actual notice of its infringement since at least December of 2009, but continued to sell infringing products to distributors, retailers, and end-users, thereby inducing infringement of the '790 patent.

16. The infringement of the '790 patent alleged above has injured Fondriest, and he is thus entitled to recover damages adequate to compensate for Chippewa's infringement, which in no event can be less than a reasonable royalty.

17. Because Chippewa was aware since at least December of 2009 that its accused products infringe the '790 patent, yet continued to make and sell the infringing products, Chippewa has willfully infringed the '790 patent.

#### **PRAYER FOR RELIEF**

WHEREFORE, Fondriest prays for entry of judgment:

- A. That Chippewa has infringed one or more claims of the '790 patent;
- B. That Chippewa has willfully infringed the '790 patent;
- C. That Chippewa account for and pay to Fondriest all damages caused by the direct and induced infringement of the '790 patent, which by statute can be no less than a reasonable royalty;
- D. That Fondriest be awarded enhanced damages as a result of Chippewa's willful infringement of the '790 patent;
- E. That Fondriest be granted pre-judgment and post-judgment interest on the damages caused by reason of Chippewa's infringement of the '790 patent;
- F. That Fondriest be granted his attorneys' fees in this action;
- G. That costs be awarded to Fondriest;
- H. That Fondriest be granted such other and further relief that is just and proper under the circumstances.

## DEMAND FOR JURY TRIAL

Fondriest demands a jury trial on all claims and issues so triable.

Respectfully submitted,

/s/ Wesley D. Few

Wesley D. Few, S.C.D.C. Fed. Id. 07371

Jake S. Barker, S.C.D.C. Fed. Id. 10375

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-AND-

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**ATTORNEYS FOR PLAINTIFF,  
WILLIAM D. FONDRIEST**

Columbia, South Carolina  
November 16, 2012