

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BROOKVILLE EQUIPMENT  
CORPORATION,

Plaintiff

v.

A. L. LEE CORPORATION,

Defendant.

Civil Action No.

**JURY TRIAL DEMANDED**

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff Brookville Equipment Corporation (hereinafter “Brookville”), by and through their undersigned counsel, hereby alleges upon information and belief the following against Defendant A. L. Lee Corporation (hereinafter “A. L. Lee”):

**THE PARTIES**

1. Brookville is a corporation organized under the laws of the Commonwealth of Pennsylvania having its principle place of business at 175 Evans Street, Brookville, Pennsylvania 15825.

2. A. L. Lee is a corporation organized under the laws of the Commonwealth of Pennsylvania having its principle place of business at 2075 Lester Highway, Lester, West Virginia 25865.

**JURISDICTION AND VENUE**

3. Brookville brings this action under the Patent Laws of the United States, Title 35 of the United States Code. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

4. Brookville is the owner of the entire right, title and interest to United States Patent No. 5,743,190 (hereinafter “the ’190 Patent”), entitled Rerailer Apparatus. A true and correct copy of the ’190 Patent is attached hereto as Exhibit A.

5. Upon information and belief, A. L. Lee is a Pennsylvania corporation which does business in Pennsylvania and this judicial district, including at least the employment of a sales representative responsible for Pennsylvania, advertising and offering for sale infringing products via [www.alleecorp.com](http://www.alleecorp.com), which is accessible all over the United States and in this judicial district, and the maintenance of a registered office in Carnegie, Pennsylvania 15106.

6. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400.

### **SUMMARY OF FACTS**

7. A. L. Lee manufactures, sells, and offers for sale underground mining equipment, including, but not limited to rail vehicles, such as its “15 Ton Battery Locomotive” and “Rail Runner (Battery)” products. True and correct copies of the “15 Ton Battery Locomotive” and “Rail Runner (Battery)” brochures are attached hereto as Exhibits B and C, respectively.

8. Both the “15 Ton Battery Locomotive” and “Rail Runner (Battery)” brochures identify a “rerailer” as an optional feature for these products. A. L. Lee’s rerailer device, as embodied by at least the “15 Ton Battery Locomotive” and “Rail Runner (Battery)” products, infringes at least one claim of the ’190 Patent.

9. On or about November 2, 2011, counsel for Brookville directly notified A. L. Lee by letter, which was received November 4, 2011, of its belief that A. L. Lee’s rerailer device infringes the ’190 Patent. Counsel for A. L. Lee subsequently responded with a letter expressing A. L. Lee’s belief that A. L. Lee’s rerailer device does not infringe any valid claim of the ’190

Patent. Counsel for Brookville and A. L. Lee exchanged two additional letters concerning infringement of the '190 Patent by A. L. Lee's rerailer device.

10. Upon information and belief, and notwithstanding Brookville's notification of infringement, A. L. Lee continues to manufacture, sell and offer for sale its infringing rerailer device, at least in connection with at least its "15 Ton Battery Locomotive" and "Rail Runner (Battery)" products.

**COUNT I:**  
**INFRINGEMENT OF THE '190 PATENT**

11. Brookville repeats and re-alleges each and every averment contained in paragraphs 1-10 of this Complaint as if fully set forth herein.

12. A. L. Lee has infringed and continues to infringe at least one claim of the '190 Patent by making, using, selling, or offering to sell, and by inducing, aiding and abetting, encouraging and contributing to others' use of A. L. Lee's rerailer device in connection with at least its "15 Ton Battery Locomotive" and "Rail Runner (Battery)" products. Upon information and belief, A. L. Lee has had specific intent to infringe the '190 Patent since at least as early as November 4, 2011, and has induced and/or contributed to infringement of the '190 Patent by providing its customers with its rerailer device and/or instructions for use or other operational material.

13. A. L. Lee has infringed the '190 Patent with knowledge of the patent and without legal justification or excuse. Therefore, A. L. Lee's infringement has been and is willful.

14. Brookville has been injured and is being injured by A. L. Lee's infringement of the '190 Patent, and Brookville will continue to suffer irreparable harm unless A. L. Lee is enjoined by this Court.

**WHEREFORE**, Brookville respectfully requests judgment against A. L. Lee and its subsidiaries and affiliates as follows:

A. An award of damages adequate to compensate Brookville for the infringement that has occurred, in the form of lost profits, a reasonable royalty, and/or A. L. Lee's total profit, together with prejudgment interest from the date the infringement began;

B. Any other damages permitted in the Court's equitable discretion, including increased damages for willful infringement under 35 U.S.C. § 284;

C. A finding that this case is exceptional and an award to Brookville of its attorneys' fees and expenses as provided by 35 U.S.C. § 285;

D. An injunction permanently enjoining A. L. Lee, and all persons in active concert or participation with them, from further acts of infringement of the '190 Patent; and

E. Such other and further relief as this Court deems proper.

### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff, Brookville, hereby demands a trial by jury of all issues triable by jury.

Respectfully submitted,

Dated: January 11, 2013

/s/ Anthony W. Brooks  
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