

**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. 11,448,224 (“the ‘224 Patent” or the “Patent-in-Suit”) by making, using, selling, and/or offering to sell its “3 Pt. Riptide” and “Trailer Riptide” liquid manure pumps (collectively, “Bazooka’s Riptide Manure Pumps”) 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 a line of vertical pit pumps for use in agitating manure lagoons, such as its 8” and 12” Vertical Pit Pumps having housings with two

or more fluid outlets (collectively, “Nuhn’s Vertical Pit Pumps”). Nuhn’s Vertical Pit Pumps are covered by claims of the ‘224 Patent.



4. Nuhn has sold its Vertical Pit Pumps 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 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 an amphibious manure lagoon agitation vehicle, known as the Lagoon Crawler, which is covered by at least five United States patents.

15. Nuhn has been making vertical pump agitators since the 1970s. During such time, Nuhn sold around seven (7) vertical pump agitators per year. Following the introduction of Nuhn's innovative Vertical Pit Pumps in 2011, Nuhn has seen dramatically increased sales and now makes approximately eight (8) Vertical Pit Pumps per week. Nuhn's innovative Vertical Pit Pumps are at least 50% more efficient than pumps offered by its competitors.

16. The invention of the '224 Patent solved these considerable deficiencies in the prior art designs. As a multiple outlet vertical pump, the Nuhn invention reduced fluid pressure loss and increased flow rate through the pump for a given output power. Abstract, '224 Patent. Indeed, the Nuhn Vertical Pit Pumps, which are a commercial embodiment of the invention claimed in the

‘224 Patent, was an instant success leading to significant commercial success, as well as copying by Bazooka.

THE PATENT-IN-SUIT

17. On March 1, 2011, Nuhn filed U.S. Patent Application No. 13/038,189 directed to a pump for immersion within a fluid reservoir. That application ultimately matured into U.S. Patent No. 8,944,758.

18. Ultimately, five additional patents were filed directed to this invention, all claiming priority to the original, above-referenced March 1, 2011 filing, including U.S. Patent Application No. 17/743,610, which ultimately matured into the ‘224 Patent.

19. To that end, on September 20, 2022, U.S. Patent No. 11,448,224, entitled “Pump for Immersion within a Fluid Reservoir,” was duly and legally issued by the United States Patent and Trademark Office. A true and accurate copy of the ‘224 Patent is attached hereto as Exhibit 1.

THE BAZOOKA RIPTIDE MANURE PUMPS

20. After Nuhn introduced its successful Nuhn Vertical Pit Pumps, Bazooka developed and began marketing its Riptide Manure Pumps. *See* September 16, 2021, video published on YouTube.com (<https://www.youtube.com/watch?v=pDqVBXWnIi8>).

21. Upon information and belief, in 2021, Bazooka entered the manure agitation market with a completely new line of agitation equipment, that included not only the Riptide Manure Pumps, but also its Wolverine Series Agitation Boat. Both the Riptide Manure Pumps and the Wolverine Series Agitation Boat are copied from Nuhn’s innovative line of successful agitation products. Bazooka’s infringing Wolverine Series Agitation Boat is the subject of two other patent infringement lawsuits in this District styled as *Nuhn Industries Ltd v. Bazooka Farmstar LLC*, Civil Action No. 3:22-cv-00015 and *Nuhn Industries Ltd v. Bazooka Farmstar LLC*, Civil Action

No. 3:22-cv-00044.

22. The Bazooka Riptide Manure Pumps are marketed as a pit pump with dual, independent nozzles that “produce top-of-the-line liquid manure agitation performance.” (<https://www.bazookafarmstar.com/riptide-series/>).

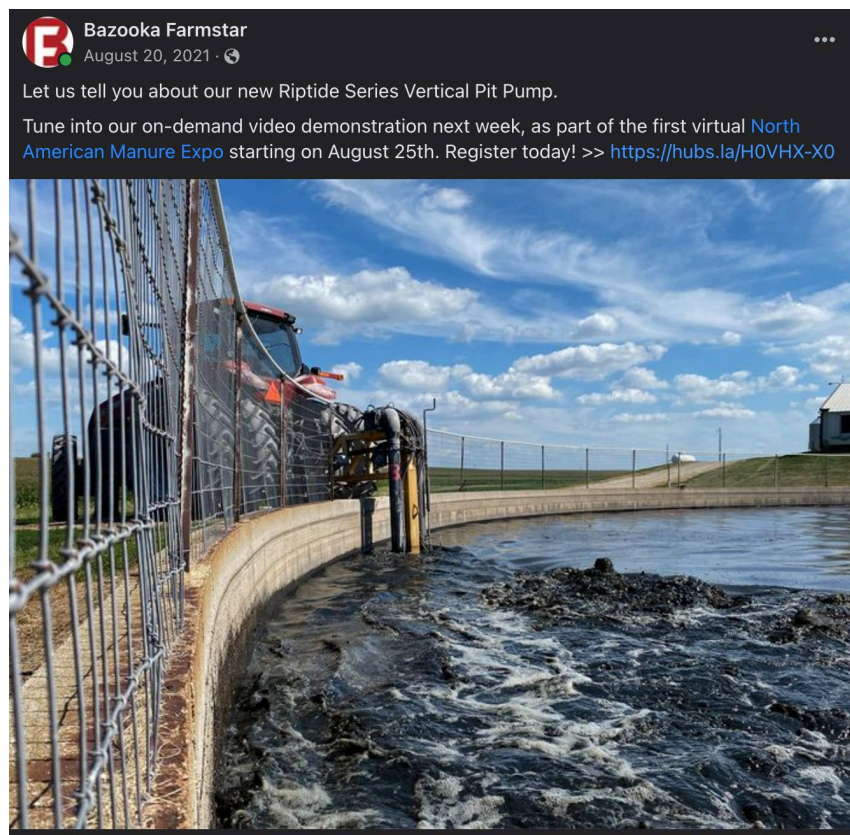
23. The Bazooka Riptide Manure Pumps include a pump body connected to a frame. Two fluid conduits are mounted on the pump body and the fluid conduits are connected to a housing that includes an impeller for directing liquid from the manure lagoon to the fluid conduits. (https://www.bazookafarmstar.com/wp-content/uploads/2021/06/IMG_4480-cropped-scaled.jpg).



24. Lastly, Bazooka advertises that the Riptide Manure Pumps include “dual, independent nozzles” that direct liquid from the pump into the manure lagoon for agitating the lagoon. The nozzles also contain a valve for controlling a liquid manure flow rate through the nozzle. (https://www.bazookafarmstar.com/wp-content/uploads/2021/06/IMG_1652-1024x683.jpg).



25. Upon information and belief, Bazooka has made, used, sold, and/or offered for sale the Bazooka Riptide Manure Pumps since at least August 20, 2021.



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

CAUSE OF ACTION

(Infringement of the '224 Patent by Defendant)

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

27. Nuhn owns all substantial right, title, and interest in and to the '224 Patent, including the sole and exclusive right to prosecute this action and enforce the '224 Patent against infringers, and to collect damages for all relevant times.

28. The '224 Patent generally describes a pump provided for immersion in a fluid reservoir, such as a pit or lagoon containing liquid manure, from a position at an edge of the reservoir.

29. The written description of the '224 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.

30. Defendant has made, used, sold, and/or offered for sale products, including its Bazooka Riptide Manure Pumps, that infringe one or more claims of the '224 Patent.

31. 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 '224 Patent, either literally or under the doctrine of equivalents, by making, having made, using, distributing, selling, and/or offering for sale the Bazooka Riptide Manure Pumps.

32. 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.

33. Defendant's infringement of the '224 Patent has caused, and will continue to cause, Nuhn to suffer substantial and irreparable harm.

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

35. Nuhn has complied with the marking requirements of 35 U.S.C. § 287 with respect to the '224 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 '224 Patent;
- (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 '224 Patent;
- (c) award Nuhn all available and legally permissible damages and relief sufficient to compensate Nuhn for Defendant's infringement of the '224 Patent, including to the full extent permitted by 35 U.S.C. § 284, together with interest, in an amount to be determined at trial; and
- (d) 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: September 20, 2022

/s/ Brandon R. Underwood

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