

TO: <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
---	---

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Eastern District of Arkansas on the following

Trademarks or  Patents. (  the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 4:12-cv-00537-DPM	DATE FILED 8/23/2012	U.S. DISTRICT COURT Eastern District of Arkansas
PLAINTIFF P. S. Products, Inc. and Billy Pennington		DEFENDANT Smart Stuff
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 US D561, 294 S	2/5/2008	P.S. Products, Inc. and Billy Pennington
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
--------------------

CLERK James W. McCormack	(BY) DEPUTY CLERK /s/ Tammy Downs	DATE 8/27/2012
-----------------------------	--------------------------------------	-------------------

Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

HDY,JURY

**U.S. District Court  
Eastern District of Arkansas (Little Rock)  
CIVIL DOCKET FOR CASE #: 4:12-cv-00537-DPM  
Internal Use Only**

P S Products Inc et al v. Smart Stuff  
Assigned to: Judge D. P. Marshall Jr.  
Cause: 35:271 Patent Infringement

Date Filed: 08/23/2012  
Jury Demand: Plaintiff  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

**Plaintiff**

**P S Products Inc**

represented by **Chris H. Stewart**  
Stewart Law Firm  
904 Garland Street  
Little Rock, AR 72201  
501-353-1364  
Fax: 501-353-1263  
Email: arklaw@comcast.net  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Billy Pennington**  
*Individually*

represented by **Chris H. Stewart**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Smart Stuff**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
08/23/2012	<u>1</u>	COMPLAINT with Jury Demand against Smart Stuff, filed by P S Products Inc, and Billy Pennington. Filing fee of \$ 350.00 paid; receipt #LIT035566; summons issued and returned to counsel. (Attachments: # <u>1</u> Civil Cover Sheet)(kdr) (Entered: 08/24/2012)

A TRUE COPY I CERTIFY  
JAMES W. McCORMACK, CLERK

By J. [Signature] D.C.

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

AUG 23 2012

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS**

By: *[Signature]*  
JAMES W. McCORMACK, CLERK  
DEP. CLERK

**P. S. PRODUCTS, INC.,  
BILLY PENNINGTON, Individually**

**PLAINTIFFS**

v. No. CV- 2012- \_\_\_\_\_

*4:12-CV-537 DPM*

**SMART STUFF**

**DEFENDANT**

This case assigned to District Judge *Marshall Young*  
COMPLAINT and to Magistrate Judge \_\_\_\_\_

**TO THE HONORABLE UNITED STATES DISTRICT COURT:**

COMES NOW the Plaintiff, P.S. Products, Inc., and Mr. Billy Pennington, individually, hereafter "Plaintiffs," by and through its attorney, Chris H. Stewart of the Stewart Law Firm, files this Complaint against the Defendant, Smart Stuff, hereafter "Defendant," herein states:

**JURISDICTION AND VENUE**

1. This Court retains jurisdiction as patent infringement raises a federal question and is proper under 28 U.S.C. § 1331.

2. Pursuant to 28 U.S.C. § 1391, venue in this suit lies in the Eastern District of Arkansas because the actions which gave rise to the claims presented in this complaint occurred in Little Rock, Arkansas, within the Eastern District of Arkansas.

3. Additionally, the Eastern District of Arkansas has personal jurisdiction of the Defendant. Defendant has maintained substantial, continuous and systematic contacts with the state of Arkansas through its business dealings with customers. Defendant marketed its services and provided customer services to the state of Arkansas. See Ark. Code Ann. § 16-4-101 (1987);

A TRUE COPY I CERTIFY  
JAMES W. McCORMACK, CLERK

By: *J. Downs* D.C.

Ultimatics, Inc. v. Minimatic, Inc., 715 F. Supp. 1448 (E.D. Ark. 1989); and Ferrell v. W. Bend Mut. Ins. Co., 393 F.3d 786 (8<sup>th</sup> Cir. 2005).

4. Additionally, The Eastern District of California has personal jurisdiction of the Defendant because, among other things, Defendant is engaged in tortuous conduct within the state of Arkansas and in this District, including placing into commerce illegal copies of products that embody the Plaintiffs' patent via and inducing third-parties to infringe upon the Plaintiffs' patented products.

**PARTIES RELEVANT TO  
PLAINTIFFS' COMPLAINT FOR PATENT INFRINGEMENT**

5. This action is brought by P.S. Products, Inc., and its president, Mr. Billy Pennington, manufacturers of stun guns and other personal security devices, organized within the state of Arkansas with its principal headquarters at 3120 Joshua Street, Little Rock, AR 72204.

6. The Defendant is a manufacture and importer of goods from China and sells the goods as retail and wholesale nationwide. The Defendant is a company organized and existing in the state of Florida with business activities throughout the United States, on the World Wide Web and specifically in the state of Arkansas. The Defendant is located at 2 South Cumberlin Ave., Ocoee, FL 34761.

**FACTS APPLICABLE TO CLAIMS IN  
PLAINTIFFS' COMPLAINT FOR PATENT INFRINGEMENT**

7. The Plaintiffs specialize in the manufacture and distribution of stun guns, stun devices, gun cleaning kits, and other personal protection devices.

8. The Plaintiffs market and sale its patented products through trade specialty shows, sales associates, retail stores, catalogs and through internet distribution throughout the United States.

9. The Defendant is a manufacturer and importer of goods from China and sells the goods as retail and wholesale nationwide.

10. On February 5, 2008, United States Letters Patent No. US D561, 294 S, were issued to the Plaintiffs for an invention for a Stun Gun.

11. The Plaintiffs owned the patent No. US D561, 294 S throughout the period of the Defendants infringing acts and still owns the patent.

12. The Plaintiffs' products are one of a kind.

13. The Plaintiffs' designs are its own intellectual property. No goods of this design existed prior to the Plaintiffs' designs and patents.

14. The Plaintiffs are the only holder of patents on products of this kind in the United States.

15. The Blast Knuckle Stun Gun is the Plaintiffs most sought after and sold product.

16. The Plaintiffs makes most of its revenue off of the patented Blast Knuckle® stun gun than any other item it sells.

17. The Plaintiffs have complied with the statutory requirement of placing a notice of the Letters of Patent on all Stun Guns.

18. On information and belief the Plaintiffs learned that the Defendant is selling an illegal product that embodies the Plaintiffs' patent.

19. The Defendant currently sells the illegal product via the telephone and out of its retail location at 2 South Cumberlin Ave., Ocoee, FL 34761.

20. The Defendant has sold and continues to sell an illegal product that embodies the Plaintiffs' patents and contributes to third parties selling illegal copies of the Plaintiffs' patents on its websites.

21. 35 U.S.C. § 271 states in part,

“(a) Except as otherwise provided in this title [35 USCS §§ 1 et seq.], whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefore, infringes the patent. (b) Whoever actively induces infringement of a patent shall be liable as an infringer.”

22. The Defendant’s actions have violated 35 U.S.C. § 271.

23. The Defendant, intentionally, willfully, and wantonly violated 35 U.S.C. § 271.

24. The Defendant without authority placed in the stream of commerce and offered to sell, illegal products that embody the Plaintiffs’ patented inventions, within the United States.

25. The Defendant without a licensed from the Plaintiffs placed in the stream of commerce and offered to sell, illegal products that embody the Plaintiffs’ patented inventions, within the United States.

26. The Defendant has induced individuals and companies to infringe on the Plaintiffs’ patented products.

27. The Plaintiff has suffered lost of reasonable royalties and loss of profits by the Defendant’s actions.

28. The Defendant has infringed and is still infringing the Letters of Patents Nos. US D561, 294 S by selling the Stun Guns that embody the patented invention and the Defendants will continue to do so unless enjoined by this Court.

29. The Plaintiffs have complied with the statutory requirements of placing notice and mailing notice of the Letters of Patent on all Stun Guns it manufactures and sells, and has given the Defendants written notice of the infringement.

**COUNT I**  
**PATENT INFRINGEMENT**

30. Plaintiffs incorporate by reference each and every averment contained in paragraphs 1 through 40 of the Plaintiffs' Complaint, inclusive.

31. The Plaintiffs are the owners of patent No. US D561, 294 S.

32. Defendant directly infringed upon the rights of the Plaintiffs' patent No. US D561, 294 S.

33. Defendant directly infringed on the Plaintiffs' patented stun gun No. US D561, 294 S by placing in the stream of commerce an illegal copy of the Plaintiffs' patented stun gun No. US D561, 294 S, at the retail location which the Defendant own and operate.

34. Each such infringement by Defendant constitutes a separate and distinct act of infringement. Defendant's acts of infringement are willful, in disregard of and with indifference to the rights of the Plaintiffs.

35. As a direct and proximate cause of the infringement by Defendant, the Plaintiffs are entitled to reasonable royalties that may be proper under 35 U.S.C. § 284 in amounts to be proven at trial, lost profits in amounts to be proven at trial, enhanced damages as may be proper under 35 U.S.C. § 284 and a reasonable attorney's fee pursuant to 35 U.S.C. § 285.

Therefore, the Plaintiffs demand:

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs prays for judgment against Defendant, as follows:

A. Judgment against the Defendant declaring that the Defendant's actions directly infringe on the Plaintiffs' patents Nos. US D561, 294 S;

B. Plaintiffs' reasonable royalties that may be proper under 35 U.S.C. § 284 in amounts to be proven at trial;

C. Plaintiff's lost profits with respect to each patent infringement in amounts to be proven at trial;

D. Enhanced damages that may be proper under 35 U.S.C. § 284 with respect to each patent infringement for the Defendant's willful infringement;

E. A declaration that the Plaintiffs' case against the Defendant is an exceptional case pursuant to 35 U.S.C. § 285 and therefore subject to attorneys' fees;

F. An award of costs and attorneys' fee to the Plaintiffs; and,

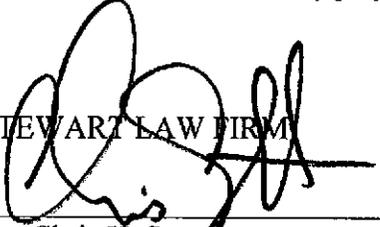
G. Such other relief as the Court deems just and reasonable.

**DEMAND FOR A JURY TRIAL**

Plaintiffs demand a trial by jury as to all claims averred herein that are triable by jury.

Dated: August 23, 2012

STEWART LAW FIRM

  
By: Chris H. Stewart  
Ark. Bar No. 03-222  
Attorney for Plaintiffs  
904 Garland Street  
Little Rock, AR 72201  
Phone: 501-353-1364  
Fax: 501-353-1263  
Email: [arklaw@comcast.net](mailto:arklaw@comcast.net)

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
OFFICE OF THE CLERK  
600 WEST CAPITOL AVENUE  
Room A149  
LITTLE ROCK, ARKANSAS 72201**

**JAMES W. McCORMACK  
CLERK**

**PHONE 501-604-5351  
FAX 501-604-5321**

August 27, 2012

Director  
U.S. Patent and Trademark Office  
Post Office Box 1450  
Alexandria, Virginia 22313-1450

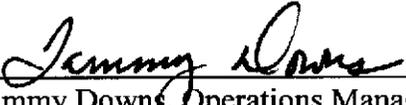
Re: 4:12-cv-00537-DPM, P.S. Products Inc., et al. v. Smart Stuff

Dear Sir:

Enclosed is Form AO-120 *Report on the Filing or Determination of an Action Regarding a Patent or Trademark* (copy 1), the complaint, and the docket sheet regarding the above-styled case. If you have any questions regarding these enclosures, please call me. Thank you.

Sincerely,

JAMES W. McCORMACK, CLERK

By:   
Tammy Downs, Operations Manager

Enclosures

cc: James McCormack, Clerk of Court