

**SOLICITOR**

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	SEP 15 2008 FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK U.S. PATENT & TRADEMARK OFFICE
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In Compliance with 35 § 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 Northern District of California on the following  Patents or  Trademarks:

DOCKET NO. CV 08-04264 PVT	DATE FILED 9/10/2008	U.S. DISTRICT COURT 280 South First St, Rm 2112, San Jose, CA 95121
PLAINTIFF AVOCET SPORTS TECHNOLOGY		DEFENDANT AMER SPORTS CORP.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,295,085		SEE ATTACHED COMPLAINT
2 5,058,423		
3 4,694,894		
4		
5		

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

DECISION/JUDGEMENT
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CLERK Richard W. Wicking	(BY) DEPUTY CLERK Betty Walton	DATE
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SEP 10 PM 1:11  
RECEIVED BY WICKING COURT  
U.S. DISTRICT COURT  
SAN FRANCISCO, CALIFORNIA

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9 AND VERTICAL INSTRUMENTS, INC.

E-filing

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

CV 08

12 AVOCET SPORTS TECHNOLOGY,  
13 INC., AND VERTICAL INSTRUMENTS,  
14 INC.,

No.

15 COMPLAINT FOR PATENT  
16 INFRINGEMENT AND UNFAIR  
17 COMPETITION [28 U.S.C. §§1338,  
18 1495]  
19 [JURY TRIAL DEMANDED]

PVT

20 Plaintiffs,

21 v.

22 AMER SPORTS CORPORATION,  
23 SUUNTO U.S.A., INC., AND AMER  
24 SPORTS U.S.A.,

25 Defendants.

26 **FIRST CAUSE OF ACTION**  
27 **(Patent Infringement)**

28 1. Jurisdiction is pursuant to 28 USC §§ 1338 and 1498, allowing original  
jurisdiction in this court for patent cases and unfair competition.

2. Venue is proper in this judicial district pursuant to 28 USC § 1391(c) in that  
defendants Suunto U.S.A., Inc., Amer Sports U.S.A., and Amer Sports Technology are  
subject to personal jurisdiction in this district as they regularly transact business here.

3. On March 15, 1994, United States Patent No. 5,295,085 and on October 22,  
1991, United States Patent No. 5,058,423 were duly and legally issued and their current

1 assignee is plaintiff Avocet Sports Technologies, Inc.. On September 22, 1987, United  
2 States Patent No. 4,694,694 was duly and legally issued and its current assignee is  
3 plaintiff Vertical Instruments, Inc.. True and correct copies of the patents, as duly  
4 assigned, are attached hereto as Exhibits 1, 2, and 3, respectively, and are  
5 incorporated herein by reference. Said patents were issued for altimeter devices as  
6 more extensively and precisely described in the attached patents.

7 3. Plaintiffs at all times relevant hereto have been the respective exclusive  
8 owner of said patents.

9 4. Defendants Amer Sport Corporation, Suunto U.S.A., Inc., and Amer Sports,  
10 U.S.A. have been and still are infringing this patent (1) by introducing, demonstrating,  
11 using, making, marketing, and selling altimeter devices, which embody the patented  
12 inventions and (2) by actively inducing others to infringe said patents, all to plaintiffs'  
13 monetary damage in excess of \$20,000,000. Defendants will continue to so infringe  
14 unless enjoined by this court.

15 5. Plaintiffs have placed the required statutory notice on all of its products which  
16 they have made, marketed, sold and used under said patent.

17 6. The infringement by defendants was willful, intentional and with conscious  
18 and knowing disregard of plaintiff's patent rights such that plaintiff is entitled to its  
19 reasonable attorney fees in pursuing this action and to treble damages.

20 **SECOND CAUSE OF ACTION**  
21 **(Unfair Competition)**

22 7. Plaintiffs reallege and incorporate by reference allegations of Paragraphs 1  
23 through 6 above as though fully set forth here.

24 8. Defendants have continuously engaged in unfair trade practices and unfair  
25 competition against plaintiff to plaintiff's irreparable damage.

26 Wherefore plaintiffs demand judgment as follows:

27 1. That defendants be preliminarily and permanently enjoined against  
28 infringement of said patent pursuant to 35 USC 283.

1           2. That defendants render an accounting for all profits defendants received by  
2 infringing said patent.

3           3. For damages against defendants sufficient to compensate plaintiffs pursuant  
4 to 35 USC § 284, but in excess of \$20,000,000.

5           4. For treble damages.

6           5. For costs and reasonable attorney fees of the subject litigation and interest as  
7 allowable by law.

8           6. For such other and further relief as the court may deem just and proper.

9 DATED: September 9, 2008

10   
11 Frear Stephen Schmid, Attorney for  
12 Plaintiffs AVOCET SPORTS  
13 TECHNOLOGY, INC., AND VERTICAL  
14 INSTRUMENTS, INC.

15 **DEMAND FOR JURY TRIAL**

16 Plaintiffs hereby demand a jury trial pursuant to Federal Rules of Civil  
17 Procedure 38.

18 DATED: September 9, 2008

19   
20 Frear Stephen Schmid, Attorney for  
21 Plaintiffs AVOCET SPORTS  
22 TECHNOLOGY, INC., AND VERTICAL  
23 INSTRUMENTS, INC.