

- OFFICIAL -

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

**OREGON, INC., a Delaware corporation;
and OREGON CUTTING SYSTEMS, a
division of Oregon, Inc.,**

Plaintiffs,

vs.

**TRILINK SAW CHAIN, LLC, a Georgia
limited liability company; TRILINK
GLOBAL, LLC, a Georgia limited
liability company; JINHUA TRILINK
HUIHUANG CO., LTD, a Chinese
company; and JINHUA HUIHUANG
HARDWARE CO., LTD, a Chinese
company,**

Defendants.

No. CV 06-00767-BR

SPECIAL VERDICT

We, the jury, unanimously find as follows:

INFRINGEMENT OF THE '783 PATENT

1. Did Plaintiffs prove by a preponderance of the evidence that any of the Accused Products literally infringe claim 1 of the '783 patent during normal operation?

Answer: Yes No _____

If yes, identify all the products you find to be infringing (see attached exhibit):

14B

16C

16E

18A

20A

“Yes” is a finding for Plaintiffs. “No” is a finding for the Defendants. Please proceed to question 2.

2. Did Plaintiffs prove by a preponderance of the evidence that the Accused Products infringe claim 1 of the '783 patent under the doctrine of equivalents during normal operation?

Answer: Yes No _____

If yes, identify all the products you find to be infringing:

14B

16C

16E

18A

20A

“Yes” is a finding for Plaintiffs. “No” is a finding for the Defendants. Please proceed to question 3.

3. Did Plaintiffs prove by a preponderance of the evidence that one or more Defendants induced users of the Accused Products to infringe claim 1 of the '783 patent?

Answer: Yes _____ No X

If yes, identify all the products you find to be infringing:

___ 14B

___ 16C

___ 16E

___ 18A

___ 20A

“Yes” is a finding for Plaintiffs. “No” is a finding for the Defendants. Please proceed to question 4.

4. Did Plaintiffs prove by a preponderance of the evidence that one or more Defendants contributed to direct infringement of claim 1 of the '783 patent by users of the Accused Products?

Answer: Yes _____ No X

If yes, identify all the products you find to be infringing:

___ Item Number 15016MK57TR (16-inch rental bar)

___ Item Number 35018MK64TR (18-inch rental bar)

___ Item Number 35020MK72TR (20-inch rental bar)

“Yes” is a finding for Plaintiffs. “No” is a finding for the Defendants. Please proceed to question 5.

INVALIDITY

5. Did Defendants prove by clear and convincing evidence that U.S. Patent No. 4,756,221 issued to Nitschmann patent contains each and every element of claim 1, and therefore anticipates claim 1 of the '783 patent?

Answer: Yes _____ No X

“Yes” is a finding for the Defendants. “No” is a finding for Plaintiffs. Please proceed to question 6.

6. For the Court to make certain legal determinations as to obviousness, please answer the following questions bearing in mind Defendants have the burden of proof by clear and convincing evidence:

a) What was the level of ordinary skill in the field that someone would have had in May of 1991? Check only one of the following:

_____ Defendants' position: At least two years of technical or engineering experience in the design of outdoor power equipment; or

_____ Plaintiffs' position: A minimum of three years of experience in design of chain saw guide bars and/or saw chain and a technical education equivalent to a bachelor's degree in Mechanical Engineering; or

X Other (specify): A minimum of three years of technical or engineering experience in the design and use of outdoor power equipment; or a technical education in mechanical engineering and one year of experience in the design of outdoor power equipment and use.

b) What was the scope and content of the prior art at the time of the claimed invention? Check only one of the following:

_____ Defendants' position: All elements of claim 1 of the '783 patent are taught in the prior art by one or more of the following combinations: (1) Nitschmann standing alone; (2) U.S. Patent No. 4,756,221 (Nitschmann) and U.S. Patent No. 4,492,030 (Beerens); or (3) U.S. Patent No. 3,279,508 (Ehlen) with U.S. Patent No. 5,048,389 (Carlton) with U.S. Patent No. 4,492,030 (Beerens), and with the publication Advanced Strength and Applied Stress Analysis, by Richard G. Budynas; or

X Plaintiffs' position: Regardless of the combinations considered, the references cited by Defendants do not teach several elements or limitations of claim 1 of the '783 patent as set forth in Plaintiff's position to question 6© below. Defendants' references also failed to provide a reason to eliminate the conventional gap between drive tang bottom and gullet bottom that was long believed to be required by persons of ordinary skill in the art; or

_____ Other (specify): _____

_____.

c) What differences, if any, existed between the claimed invention and the prior art at the time of the claimed invention? Check only one of the following:

_____ Defendants' position: No difference between the scope of the invention and the prior art described as Defendants' position in 6(b) above; or

_____ Plaintiffs' position: Defendants' references do not provide a reason to combine those references and do not teach elimination of a gap between the drive

tang bottom and gullet bottom. Instead, Defendants' references support the conventional teaching that such a gap was needed, in addition to the cleanout, to avoid sawdust packing in the bottom of the gullet. ~~The references cited by Defendants also fail to teach any of the following: 1) a tang portion adapted to contact the gullet formation substantially along the rounded bottom region of the gullet to transmit operational forces to the gullet bottom; 2) rivets traversing a common linear path; or 3) rivets traversing a common curvilinear path; or~~

X Other (specify): Edit to Plaintiff's position above

7. Did Plaintiffs prove by a preponderance of the evidence that any of the following factors apply to the claimed invention? Check all that you find apply:

X Commercial success of a patented product due to the merits of the claimed invention.

X A long felt need for the solution that is provided by the claimed invention.

X Unsuccessful attempts by others to find the solution that is provided by the claimed invention.

X Copying of the claimed invention by others.

X Unexpected and superior results from the claimed invention.

X Acceptance by others of the claimed invention as shown by praise from others in the field or from licensing of the claimed invention.

X Teaching away in the prior art.

If you answered "yes" to question 5 and have completed questions 6 and 7, your verdict is for Defendants and your deliberations are concluded. Do not answer any more questions and sign and date your verdict.

If you answered "yes" to any of questions 1, 2, 3 or 4, and you answered "no" to question 5, your verdict is for Plaintiffs. If you have also completed questions 6 and 7, please proceed to question 8.

DAMAGES

8. What damages did Plaintiffs prove by a preponderance of the evidence they sustained as a result of Defendants' infringing conduct that you found by answering "yes" to any of questions 1, 2, 3, or 4?

a. Reasonable royalty \$ 403,530 (on sales of Defendants' infringing combination packs between August 2005 and September 2007)

b. Price erosion

i. \$ 1,152,079 (on sales of Plaintiffs' combination packs only)

ii. \$ 380,570 (on sales of Plaintiffs' separately sold saw chain that fits the bars in their combination packs)

Your deliberations are complete. Please have the Presiding Juror sign, date and return this form to the clerk.

Date: March 4, 2009.

By: 

Presiding Juror