

## Shooting, Hunting, and Outdoor Industries IP Update

This is the February 2011 installment of Sutherland's "Shooting, Hunting, and Outdoor Industries IP Update." These updates are intended to inform our readers about intellectual property (IP) developments in the shooting, hunting, and outdoor industries. If the information provided herein is of interest, or if additional information is desired, please contact us.

### LaserMax Granted Royalty-Free Patent Licenses in Crimson Trace Patent Infringement Feud

LaserMax, Inc. ("LaserMax") and Crimson Trace Corp. ("Crimson Trace") recently settled a patent infringement case filed in January 2009 related to four patents for laser sighting devices for firearms asserted by Crimson Trace. Public terms of the settlement include a finding of no liability on the part of LaserMax, LaserMax pays no money to Crimson Trace, and Crimson Trace grants LaserMax royalty-free licenses in three of the originally asserted patents. The U.S. District Court for the District of Oregon also ordered \$10,000 in sanctions against Crimson Trace. The fourth and remaining patent-at-issue was withdrawn from the suit, and, prior to settlement, LaserMax was granted a covenant by Crimson Trace that it would not be sued on that patent. The district court case is no. 3:2009cv00057.

(Source: The Shooting Wire)

### Patent Owner Asserts Firearm Mounted Video Camera Patent

U.S. Patent No. 7,880,793 relating to a video camera with a mounting rail for mounting to a firearm was asserted by patent owner, Larry Holmberg, against four defendants including Bushnell Corp.; Wildgame Innovations, LLC; WGI Innovations, Ltd.; and Stealth Cam, LLC, in three separate lawsuits filed on February 1, 2011, in the U.S. District Court for the District of Minnesota. The district court cases are numbers 0:11-cv-00245-DWF -LIB, 0:11-cv-00247-JRT -LIB, and 0:11-cv-00248-JRT -LIB.

(Source: [www.rfcexpress.com](http://www.rfcexpress.com))

### New False Patent Marking Cases Filed by Patent Group, LLC

Patent Group, LLC filed a new round of false patent marking lawsuits against several patent owners, whose patents appear to have expired. Several hunting and outdoor industry companies were named in these lawsuits including the Outdoor Connection, Inc.; The Tackle Factory Inc.; Cyalume Technologies Inc.; Spyderco, Inc.; RyKel Industries, Inc.; Cramer Products, Inc.; and KAI U.S.A., LTD. d/b/a Kershaw Knives. All of these lawsuits were filed in the U.S. District Court for the Eastern District of Texas, a forum perceived favorable for plaintiffs and jury damage awards. Current patent law provides for damages against a patent owner for up to \$500 per article marked with an expired patent; however, the U.S. Congress and several courts are considering changes to the law to deter future false patent marking lawsuits. These recent cases serve as reminders to patent owners to periodically review their patent marking procedures.

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(Source: [www.rfcexpress.com](http://www.rfcexpress.com))

### Patent Asserted for Light Emitting Diode (LED) Assembly for Flashlights

On January 24, 2011, Illumination Innovation, LLC, filed a patent infringement suit against 14 retailers on a patent related to an LED assembly for flashlights (U.S. Patent No. 6,502,952). The retailer defendants include Ace Hardware Corporation; Amazon.com, Inc.; Lowe's Home Centers, Inc.; Sears, Roebuck and Company; Super Brights LEDs, Inc.; and TerraLUX, Inc. This lawsuit was filed in the U.S. District Court for the Eastern District of Texas, and is court case 2:11-cv-00027-TJW.

Illumination Innovation, LLC is a privately-held, Idaho-based company.

(Source: [www.rfcexpress.com](http://www.rfcexpress.com))

### Sabre Defense Indicted for Firearm Export Control Violations

On February 8, 2011, a federal grand jury indicted Sabre Defense Industries LLC and five employees, including the owner, president, CFO, and a sales director and manager for violations of the Arms Export Control Act (AECA). The indictment alleges several illicit activities, in particular, that the defendants caused firearm components to be exported overseas since 2003 without an export control license or permission from the U.S. Department of State. Further, the indictment alleges that the defendants used e-mail to communicate with persons overseas regarding the shipment of firearm components without an export control license or permission. Violations of the AECA incur a maximum penalty of 20 years imprisonment and \$1 million in fines. The indictment serves as a reminder that an export control license from the U.S. government may be necessary before sending certain firearm components and related technical information, such as intellectual property, to a foreign national abroad or in the United States.

(Source: The Shooting Wire)



*If you have questions about any of these developments, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.*

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