

Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

BADEN SPORTS, INC.,

Plaintiff,

Case No. 11-603MJP

v.

**SECOND AMENDED COMPLAINT
FOR PATENT INFRINGEMENT AND
MISAPPROPRIATION OF TRADE
SECRET**

WILSON SPORTING GOODS CO.,

Defendants.

JURY TRIAL DEMANDED

On information and belief, plaintiff Baden Sports, Inc. (“Baden”) hereby alleges as follows:

I. PARTIES, JURISDICTION, AND VENUE

1. Baden is a Washington state corporation, with its principal place of business in Federal Way, Washington. Baden is in the business of selling and supplying sporting goods to the public.

2. Wilson Sporting Goods Co. (“Wilson”) is a Delaware corporation with its principal place of business at 8700 West Bryn Mawr Avenue, Chicago, Illinois 60631. Like Baden, Wilson is

1 in the business of selling and supplying sporting goods to the public, including within this judicial
2 district.

3 3. The basketball products and other inflatable ball products that are the subject of this
4 complaint are being offered for sale and sold in this judicial district by Wilson. These products are
5 being offered for sale and/or sold on behalf of Wilson by retailers engaged in trade and commerce in
6 this district, including Big 5 Sporting Goods (a national retailer) and The Sports Authority (a
7 national retailer). Both Big 5 and The Sports Authority have retail stores in this jurisdiction.
8

9 4. Wilson solicited confidential and proprietary technical information from a retired
10 Baden employee in the state of Washington, Mr. Ray Sharpe. The information solicited from Mr.
11 Sharpe involved the design details of a Baden machine that he built and replicated in the state of
12 Washington. The machine, an inflation table, involves a unique combination of components
13 described below that works in a coordinated fashion and constitutes a trade secret.
14

15 5. Mr. Sharpe resides at his home in Pierce County, Washington. The technical
16 information solicited by Wilson from Mr. Sharpe relates to certain state law claims that are the
17 subject of this complaint.

18 6. Wilson's solicitation of technical information gives rise to claims of misappropriation
19 of trade secrets. Baden seeks recovery of damages for the same pursuant to RCW 19.108 *et seq.*
20

21 7. This Court has subject matter jurisdiction under 28 U.S.C. § 1332 in that this is a
22 matter in which diversity of citizenship exists and the matter in controversy exceeds the sum of
23 \$75,000, exclusive of interest and costs.

24 8. This Court also has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
25 1338 because this action involves claims of patent infringement under 35 U.S.C. § 271.
26

1 9. Venue is proper in this jurisdiction pursuant to 28 U.S.C. § 1391.

2 II. FACTS

3 10. Baden is in the business of supplying and selling basketballs and other sporting
4 goods.

5 11. Baden was founded by Mr. E.C. Schindler after he sold an electrical heating business.
6 Mr. Schindler had a background in manufacturing and production.
7

8 12. In or about 1992, Mr. Schindler moved Baden's business to its present building in
9 Federal Way, Washington. Baden's building houses corporate and sales staff and necessary
10 warehouse space for shipping and handling Baden's products.

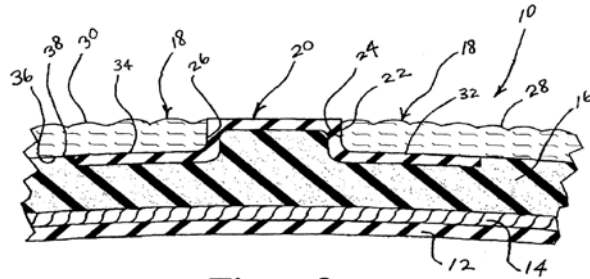
11 13. In the mid-90's, Baden developed a new game-quality basketball that is "cushioned"
12 or "padded." The basketball is padded by manufacturing it with a cellular sponge layer that
13 underlies the basketball's exterior skin panels and seams.
14

15 14. On May 12, 1995, Baden filed a patent application in the United States Patent Office
16 ("USPTO") on certain features of its padded basketball design considered to be unique by Baden.
17 Among other things, Baden's design created basketball seams having a "soft" feel. The USPTO
18 subsequently granted Baden a patent on June 10, 1997: U.S. Patent No. 5,636,835 ("the '835
19 patent").

20 15. Other competitors began copying Baden's products. Wilson also copied Baden's
21 products.
22

23 16. The '835 patent is valid and enforceable. Baden owns the patent and has
24 continuously made basketballs covered by the patent since the mid-90's.
25

1 17. Set forth below is a copy of a Figure taken from the '835 patent that schematically
2 illustrates an example of the seam and cellular sponge layer construction of Baden's patented design:
3



8 Fig. 3

9 18. Arrow 20 above points to the top of a basketball seam that is formed from a thin strip
10 of rubber (shown in cross-section). Arrow 16 points to the cellular sponge layer below the seam and
11 panels.
12

13 19. The design of the Baden basketball (seam strip over the sponge layer) is amenable to
14 mass production because the sponge layer ("cushion") is created in the mold with the seam on top.
15

16 20. Baden described the design as "Cushion Control Technology" or "CCT" to describe
17 to its customers that it was selling a "soft" feel basketball.
18

19 21. Wilson is now advertising for sale a "soft" feel basketball that Wilson describes as
20 "Cushion Core Technology."
21

22 22. As reflected below, Wilson's "Cushion Core Technology" calls for a basketball that
23 is "cushioned" or "padded" by manufacturing it with a cellular sponge layer that underlies the
24 basketball's exterior skin panels and seams.
25

26 23. Like its competitors, including Wilson, Baden contracts out the manufacture of
basketballs, soccer balls, volleyballs and the like (collectively "inflatable ball products") and other
ball products to overseas manufacturers. The finished products are shipped to Baden in the U.S.

with Baden's brands.

1 24. Baden's overseas contractors ship the majority of Baden's products to U.S. ports in
2 conventional sea-land containers. Because of their relatively light weight, it is more cost effective to
3 ship inflatable ball products to the U.S. when they are deflated – which allows more product units to
4 be stacked within the volume defined by the envelope of the container. Baden then inflates the balls
5 and packages them in the U.S.

6 25. Inflating basketballs and similar products is a labor intensive process. Baden's
7 business involves the inflation of millions of balls every year. A needle needs to be physically
8 inserted in the valve of every ball to inflate the ball to a pressure within a certain range. Improper
9 insertion of the needle can damage the valve, making the product defective for sale. From the
10 quality standpoint, it is desirable to inflate balls consistently so that each one has about the same
11 internal pressure.
12

13 26. At or about the time Mr. Schindler moved Baden to Federal Way, he decided to build
14 a ball inflation table for the purpose of automating the ball inflation process and improving speed,
15 quality, and overall production efficiency at what was then a new facility. There were and are no
16 known machines, devices or processes that could do what Baden wanted. There were and are no
17 known companies that sold machines of this type. There is no market for this type of machine
18 because there are only a handful of companies who need one. As a consequence, Mr. Schindler
19 decided that Baden would build a machine in-house.
20

21 27. Baden designed and built the inflation table using a unique and novel combination of
22 characteristics and components to operate in coordinated fashion for the purpose of increasing
23 production speed, further described below.
24

1 28. The design details of Baden's inflation table are not generally known to others or
2 readily ascertainable by others who can obtain economic value from knowledge of its use.

3 29. The cost of inflating and packaging inflatable balls is a production cost item that is
4 measurable. The inflation table reduced Baden's processing cost per ball.

5 30. The overall cost savings are significant to Baden's business because of the large
6 numbers of balls (millions) processed each year. The inflation table derives independent economic
7 value in that it reduces Baden's per unit cost in inflating and packaging inflatable balls for shipment
8 to Baden's customers.

9 31. The Baden inflation table is used to inflate patented game quality basketballs that are
10 to be sold by major retailers.

11 FIRST CLAIM FOR RELIEF – INFRINGEMENT OF '835 PATENT

12 32. Baden realleges and incorporates the allegations in all previous paragraphs set forth
13 above, as if fully set forth herein.

14 33. Wilson misappropriated Baden's patented basketball design and is selling basketballs
15 purported to have "Cushion Core Technology: Patented Cushion Core Technology combines low-
16 density sponge rubber and ultra-durable butyl rubber producing a basketball with exceptional feel."
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34. Wilson’s “Cushion Core Technology” copies basketball technology originally developed and patented by Baden. The seam and cellular sponge construction of the invention claimed in Baden’s ‘835 patent are believed to be used in several basketball products currently sold by Wilson, including: Wilson’s NCAA Solution Game Ball, Wilson’s Evolution Game Ball, Jet Competition, NCAA Competition, NCAA Game Ball, NCAA Replica, NCAA Wave Game Ball, NCAA Wave Microfiber and Wave Game Ball. An example of Wilson’s NCAA WTB0700 game balls shown below:

Wilson Basketball : WTB0700 - NCAA Game Ball



35. Wilson is presently making, using, selling or offering to sell basketballs in the United States, including within this judicial district, that infringe upon one or more claims of Baden’s ‘835 patent in violation of 35 U.S.C. § 271. Wilson is also actively inducing infringement of the ‘835

1 patent by retailers, sports associations, high schools, and universities. Wilson's violation of Baden's
2 patent rights is intentional and willful.

3 36. Under the applicable patent laws of the United States, in order to obtain a judgment of
4 patent infringement, Baden needs to establish by a preponderance of the evidence that Wilson is
5 making, using, selling or offering to sell basketballs that are covered by at least one patent claim of
6 the '835 patent. Wilson is infringing at least claim 3 of the '835 patent.

7
8 37. As an example of infringement, claim 3 of the '835 patent reads on and covers
9 Wilson's Solution Game Ball and other Wilson "Cushion Core Technology" basketballs, as follows:

Claim 3 – '835 Patent	Is corresponding component present in Wilson Solution Basketball?
3. A ball carcass for a padded inflatable ball, comprising:	Yes – the Solution Basketball is a padded inflatable ball
an inner carcass portion defining the shape of a ball,	Yes – the Solution Basketball has an inner carcass portion defining the shape of the ball
a cellular sponge layer surrounding the inner carcass portion,	Yes – the Solution Basketball has a cellular sponge layer surrounding the inner carcass portion
a plurality of raised seams defined by strips of a seam material, wherein the strips of seam material are bonded directly to the cellular sponge layer and the sponge layer underlies the strips of seam material,	Yes – the Solution Basketball has a plurality of raised seams defined by strips of a seam material, wherein the strips of seam material are bonded directly to the cellular sponge layer and the sponge layer underlies the strips of seam material
the seam material strips being arranged relative to the sponge layer so that areas of the sponge layer are exposed between the seam material strips,	Yes – the Solution has seam material strips being arranged relative to the sponge layer so that areas of the sponge layer are exposed between the seam material strips
and wherein the inner carcass portion, the cellular sponge layer and raised seams together define the ball carcass.	Yes – the Solution Basketball has an inner carcass portion, cellular sponge layer and raised seams that together define the ball carcass.

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SECOND CLAIM FOR RELIEF – MISAPPROPRIATION OF TRADE SECRET

38. Baden realleges and incorporates the allegations in all previous paragraphs set forth above, as if fully set forth herein.

39. Baden’s Federal Way building has an in-house shop that was run by Ray Sharpe. Ray Sharpe worked directly for Mr. Schindler for many years. Ray Sharpe had a wide range of “fix it” responsibilities, including maintenance responsibilities relating to Baden’s building, as well as assistance with the inflation table at Baden.

40. The inflation table was, and continues to be, subject to reasonable efforts under the circumstances to maintain its secrecy. For instance, Ray Sharpe knew of Mr. Schindler’s business practices concerning revealing Baden production methods to outsiders and was instructed during his employment with Baden that information relating to the inflation table was confidential and proprietary.

41. While the inflation table’s design was Mr. Schindler’s idea, Mr. Sharpe repaired and maintained the inflation table and was responsible for its operation for about seventeen years after it was built. Mr. Schindler passed away approximately 10 years ago, leaving Mr. Sharpe as the only person in the world having the knowledge and skills to replicate the table without actually having one in-hand.

42. Approximately 5 years ago, Baden opened a second U.S. facility in Louisville, Kentucky where Baden also inflates balls. Mr. Sharpe replicated the inflation table (“the Louisville tables”) for use there – the Louisville operations are similar to Baden’s Federal Way operation.

1 43. Mr. Sharpe was involved in shipping and final assembly of the Louisville tables in
2 Louisville.

3 44. Baden also hired Mr. Mark Hulscher to help Mr. Sharpe with the air pressure system
4 on the Louisville tables.

5 45. Mr. Sharpe later retired from Baden in 2009 after 22 years of employment. Baden
6 thereafter continued to provide Mr. Sharpe with certain employee benefits for a period of time
7 following his retirement.
8

9 46. Following Mr. Sharpe's retirement, Baden also consulted with Mr. Sharpe from time
10 to time concerning Baden maintenance issues. Depending on the time involved, Mr. Sharpe was paid
11 for his post-retirement work for Baden.

12 47. When he retired, Mr. Sharpe executed a contract acknowledging Baden's proprietary
13 information and developments.
14

15 48. During the course of post-retirement consultations with Baden, Mr. Sharpe revealed
16 to a Baden employee that he had built Baden's inflation table for Wilson without disclosing these
17 activities to Baden.

18 49. When contacted by Baden's CEO about his activities on behalf of Wilson, Mr. Sharpe
19 admitted that he had, in fact, been involved in providing Baden's inflation table technology to
20 Wilson.
21

22 50. Based on information provided by Mr. Sharpe, Baden contacted Baden's packaging
23 supplier, Allpak, concerning the facts and circumstances that gave rise to Mr. Sharpe providing
24 design details about Baden's inflation table to Wilson.
25
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1 51. Baden learned that Mr. Bill Dixon, a Wilson employee or Wilson representative,
2 contacted Baden's packaging supplier, Allpak.

3 52. According to Allpak, it has expertise in "lean principles." According to Allpak, Mr.
4 Dixon was the "Lean Manufacturing" change agent assigned to convert Wilson facilities from the
5 typical manufacturing model to world class operations, embracing all aspects of "Lean
6 Management."

7 53. Mr. Dixon contacted Mr. Bruce Hutcheon at Allpak and explained Dixon's
8 responsibilities. According to Allpak, Mr. Dixon thought that Allpak could contribute to Dixon's
9 "lean" improvement efforts for Wilson and, in return, offered the possibility of new business from
10 Wilson "based on success."

11 54. Dixon's contact with Allpak eventually resulted in a team from Allpak being sent to
12 Wilson's main facility in Tennessee to evaluate Wilson's packaging lines.
13

14 55. During the course of Allpak's contacts with Wilson, Wilson revealed to Allpak that it
15 was also interested in developing improved ball inflation devices for speeding up the delivery of
16 inflated balls to multiple numbers of ball packaging lines.
17

18 56. According to Allpak, Wilson asked Allpak if Allpak would assist Wilson in
19 developing a better ball inflation system.
20

21 57. Allpak declined Wilson's request because of concerns that these efforts would create
22 a breach of confidence and conflict of interest with Baden.

23 58. However, one member of Allpak's team included Mr. Joe Bandoock, Jr. His father,
24 Joe Bandoock, Sr., had worked at Baden as Ray Sharpe's supervisor. Bandoock, Jr. also had a prior
25 15-year employment history with Baden.
26

1 59. Apparently unknown to Allpak's CEO at the time, Bandock, Jr. revealed to Wilson
2 that he "knew of a company (Ray Sharpe)" who had expertise with ball inflation technology.

3 60. Ray Sharpe has never had a company or other business that provides ball inflation
4 technology to the public or to any company involved with the manufacture and packaging of
5 inflatable balls.

6 61. Based on information wrongfully supplied by Bandock, Jr., Wilson proceeded to
7 contact Mr. Sharpe at his home in Pierce County, at which time Wilson learned about Mr. Sharpe's
8 experience with Baden's inflation table.

9 62. Unable to develop its own technology, Wilson knew or should have known that the
10 design and operation of Baden's inflation table was proprietary to Baden.

11 63. Mr. Sharpe had an ongoing part-time consulting relationship with Baden at the time
12 he was contacted by Wilson.

13 64. Wilson offered payments to Mr. Sharpe for the purpose of acquiring Baden's ball
14 inflation technology.

15 65. Wilson offered payments to Mr. Sharpe knowing of Mr. Sharpe's employment history
16 with Baden.

17 66. Unknown to Baden, on information and belief, and in violation of his obligations to
18 Baden, Mr. Sharpe contracted with Wilson to upgrade Wilson's ball inflation processes using
19 Baden's inflation table technology.

20 67. Unknown to Baden, on information and belief, Mr. Sharpe informed Wilson that Mr.
21 Hulscher had worked on the air manifold system on Baden's machine and brought in Mr. Hulscher
22 to help.

1 68. Unknown to Baden, on information and belief, Mr. Sharpe and Hulscher together
2 replicated their efforts in duplicating Baden's Louisville tables, except this time their efforts were
3 made on behalf of Wilson, for use in Wilson's Tennessee facility.

4 69. On information and belief, Wilson contracted to pay Messrs Sharpe and Hulscher
5 \$100,000 or more for their services in duplicating Baden's ball inflation table.

6 70. Wilson did not request Baden's permission to contact Mr. Sharpe or Mr. Hulscher or
7 reveal to Baden that Wilson was soliciting individuals who had a history with Baden's inflation table
8 for the purpose of Wilson's "lean manufacturing" efforts.

9 71. Baden had no knowledge of the foregoing activities until Mr. Sharpe boasted about it
10 to a current Baden employee during the course of Mr. Sharpe's ongoing contacts with Baden.

11 72. Baden's inflation table is not known to the public. Baden's customers are not given
12 access to the inflation table. Competitors are not given access to the inflation table. No Baden
13 vendor involved in the manufacture or production of inflatable balls in competition with Baden (i.e.,
14 ball suppliers) is allowed access to the area where the inflation table is located. Baden has not
15 allowed any person or party to gain access to or possess the machine who was not involved in
16 production activities on behalf of Baden. The machine is not offered for sale to anyone.

17 73. The inflation table has been one of a kind at Baden since it was initially conceived of
18 by Mr. Schindler and then built at Baden. Baden debugged and solved the mechanical or operational
19 problems attributable to the development of the table's design.

20 74. Because of the complexity of the design, the inflation table cannot be copied or
21 reverse engineered without gaining possession of one or having access to someone (a Baden
22 employee) with the knowledge and skills to build one.

Baden's Trade Secrets

1
2 75. Baden's inflation table is a contraption -- unlike any other known machine in the
3 world -- built for the purpose of speeding up the rate of inflating balls so that they may be packaged
4 and moved out of warehouse space at a higher rate of speed. In addition to conceiving and building
5 an original machine based on Mr. Schindler's production ideas, over the years, Baden debugged and
6 solved the mechanical or operational problems attributable to the development of the table's design.
7 In addition to building the machine, the information required to operate and maintain the machine
8 without significant mechanical or operational problems is a trade secret under Washington state law,
9 RCW 19.108 et seq.
10

11 76. The inflation table uses a unique and novel combination of components (summarized
12 below) designed to operate in coordinated fashion. This unique and novel combination of
13 components is a trade secret under Washington state law, RCW 19.108 et seq.
14

15 77. How the components of the machine (summarized below) are designed to operate
16 together in coordinated fashion is a trade secret under Washington state law, RCW 19.108 et seq.

17 78. Baden's inflation table creates significant economic value for Baden in that it reduces
18 Baden's per unit cost in inflating and packaging inflatable balls at Baden's two facilities in Federal
19 Way, Washington, and Louisville, Kentucky. The per unit cost savings derived by Baden by using
20 the Baden inflation table is a trade secret under Washington state law, RCW 19.108 et seq.
21

22 79. Baden limits physical access to the table and has not otherwise published the details
23 of the table in a way that would enable others to build it without gaining access to the machine or
24 using Mr. Sharpe. All the construction details of the table are trade secrets under Washington state
25 law, RCW 19.108 et seq.
26

1 80. The inflation table has a circular surface that rotates with multiple inflation stations
2 around the periphery. The size, adjustable speed of rotation, access that it provides to production
3 employees, and number and spacing of inflation stations, all are trade secrets under Washington state
4 law, RCW 19.108 et seq.

5 81. The inflation table is powered by an electric motor with adjustable speed controls that
6 drives table rotation. The design details of the motor and adjustable speed controls that drive table
7 rotation are trade secrets under Washington state law, RCW 19.108 et seq.

8 82. The inflation table has a custom built mechanical structure for inserting the needle to
9 a proper depth within each ball's valve at each one of the multiple inflation stations on the table's
10 surface. The design details of the custom built mechanical structure for inserting the needle to a
11 proper depth within each ball's valve at each one of the multiple inflation stations on the table's
12 surface are trade secrets under Washington state law, RCW 19.108 et seq.

13 83. Each inflation station has a support member, a ball sensor, an inflation needle
14 attached to an air hose/air manifold system, and an ejection arm. The design details of the support
15 member, ball sensor, inflation needle attached to an air hose/air manifold system, and ejection arm
16 are trade secrets under Washington state law, RCW 19.108 et seq.

17 84. The inflation needle - which Baden customizes to enhance the needle insertion
18 process -- rests on the support member while a ball is being inflated. The design details of
19 customizing the inflation needle, which results in a needle different from an off-the-shelf part, are
20 trade secrets under Washington state law, RCW 19.108 et seq.

21 85. The air manifold system is custom-built for Baden's inflation table and delivers air to
22 each station for inflating the ball to the correct pressure. The design details of the custom-built air
23

1 manifold system that delivers air to each station for inflating balls to the correct pressure are trade
2 secrets under Washington state law, RCW 19.108 et seq.

3 86. Because the amount of air pressure for different types of balls differs, the inflation
4 table uses a custom-built programmable controller for setting pressure and other table controls like
5 speed of rotation, which is set using a touch screen operator interface panel. The design details of
6 the inflation table's custom-built programmable controller for setting pressure and other table
7 controls like speed of rotation are trade secrets under Washington state law, RCW 19.108 et seq.

8 87. When running, balls are delivered to a central station at the table center; a worker
9 removes the ball from the central station and places the ball in position at an inflation station; guides
10 the needle into the ball; and releases the ball. A sensor, located on the support member recognizes
11 the placement of the ball and triggers an automatic inflation cycle as the ball travels on the rotating
12 table to an offloading point. The design details of the inflation table's sensor for locating ball
13 placement and triggering an automatic inflation cycle as the ball travels on the rotating table to an
14 offloading point are trade secrets under Washington state law, RCW 19.108 et seq.

15 88. When the ball reaches the table offloading point, the ejection arm is automatically
16 activated and the inflated ball is kicked off the table for packaging. The design details of the
17 ejection arm that is automatically activated and kicks off the inflated ball from the table are trade
18 secrets under Washington state law, RCW 19.108 et seq.

19 89. A custom built oiler device on the table lubricates needles after ball injection, for the
20 next use. The design details of the oiler device are trade secrets under Washington state law, RCW
21 19.108 et seq.

1 90. The circular design of the Baden table enables multiple workers to work around the
2 periphery of the rotating table and add deflated balls to unused inflation stations, with all workers
3 accessing incoming deflated balls from the same central starting point. The table's adjustable speed
4 of rotation helps drive worker production speed. A worker only needs to touch a ball once during the
5 inflation cycle. The design details relating to using table speed rotation to drive production speed,
6 coupled with a design that allows a worker to only touch a ball once during a given inflation cycle
7 are trade secrets under Washington state law, RCW 19.108 et seq.

9 91. Wilson was unable to improve ball inflation speed for its packaging line without
10 looking outside Wilson.

11 92. While it should have known beforehand, Wilson's solicitation of Baden's supplier,
12 Allpak, and Allpak's refusal to provide ball inflation expertise to Wilson because of Allpak's
13 concerns about breaching Baden confidences, should have provided Wilson with reason to know that
14 it was using improper means to acquire Baden's inflation table technology by proceeding to contact
15 and employ Mr. Sharpe outside Baden's knowledge.

17 93. Wilson did not contact Baden or inform Baden that it intended to solicit Mr. Sharpe to
18 build an inflation table for Wilson because Wilson knew that Baden would object to any contact
19 between Mr. Sharpe and Wilson for the purpose of Wilson's acquisition of ball inflation technology.

20 94. Wilson had no facts or information causing Wilson to believe that Baden gave Wilson
21 implied consent to use Baden's inflation table design.

22 95. Likewise, Mr. Sharpe knew or should have known that his knowledge and expertise
23 concerning Baden's inflation table technology or other information in his possession concerning
24 Baden's business operations had been learned by him under circumstances such that he knew or had
25

1 reason to know that information of this kind is supposed to be held in confidence and not delivered
2 to Baden's competitors. Baden was reasonable in inferring that Mr. Sharpe knew or should have
3 known that he had an ongoing obligation of confidentiality to Baden based on his position of trust
4 with Mr. Schindler; his knowledge about Mr. Schindler's practices of not disclosing information to
5 competitors; his execution of a written acknowledgement relating to Baden proprietary information
6 when he retired; Baden's payment to Mr. Sharpe of post-retirement benefits; and the ongoing
7 contacts he had with Baden following retirement; and his knowledge that Baden would have strongly
8 objected to any contact between Mr. Sharpe and Wilson for the purpose of Wilson's acquisition of
9 ball inflation technology.
10

11 96. All information Wilson obtained from Ray Sharpe and/or AllPak relating to Baden's
12 business operations was obtained in violation of Washington's trade secret statute, whether or not
13 the information specifically related to the Baden Inflation Table. Wilson had no right to
14 communicate with Mr. Sharpe concerning any aspect of Baden's business, whether or not it related
15 to the table. Wilson knew or should have known that Baden would have strongly objected to any
16 contact between Mr. Sharpe and Wilson for the purpose of Wilson's acquisition of ball inflation
17 technology.
18

19 97. Wilson has violated the Washington State Trade Secrets Act, RCW 19.108 *et seq.*, by
20 using improper means to misappropriate a confidential and proprietary design developed and owned
21 by a Washington company that is used in the states of Washington and Kentucky. The inflation
22 table derives independent economic value in that it reduces Baden's per unit cost in inflating and
23 packaging inflatable balls for shipment to Baden's customers. Wilson stands to receive the same
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26

1 economic benefit, multiplied, because of the large number of inflatable balls processed by Wilson on
2 an annual basis.

3 PRAYER FOR RELIEF

4 WHEREFORE, Baden requests the following relief:

5 a. That the court find that Wilson and those acting in concert with Wilson have violated
6 35 U.S.C. § 271 and Baden's patent rights by infringing the '835 patent;
7

8 b. That Wilson and those acting in concert with Wilson be permanently enjoined from
9 infringing the '835 patent, pursuant to 35 U.S.C. § 283, including but not limited to an injunction
10 barring:

11 (1) the importation of infringing basketballs into the United States;

12 (2) all advertising of infringing basketballs in any way that is accessible to

13 United States customers or the consuming public in the United States;
14

15 c. That Wilson and those acting in concert with Wilson be ordered to pay to Baden
16 damages adequate to compensate Baden, pursuant to 35 U.S.C. § 284, in an amount to be proven at
17 trial, but in any event no less than a reasonable royalty for all infringing basketballs imported into
18 the U.S., or sold in the U.S., or imported and exported through the use of American ports, or
19 transported though the U.S. in any way;

20 d. That Wilson and those acting in concert with Wilson be ordered to pay Baden
21 applicable costs, prejudgment and post judgment interest on all damages proven by Baden at trial,
22 pursuant to 35 U.S.C. § 284;
23

1 e. That Wilson and those acting in concert with Wilson be found to have engaged in
2 willful acts of infringement and required to pay Baden an increased damages award of three (3)
3 times the amount proven by Baden at trial, pursuant to 35 U.S.C. § 284;

4 f. That Wilson and those acting in concert with Wilson be found to have engaged in
5 willful acts of infringement and required to pay Baden's attorney's fees pursuant to 35 U.S.C.
6 § § 284 and 285;

7 g. That the court find that Wilson and those acting in concert with Wilson have violated
8 the Washington State Trade Secrets Act, RCW 19.108 *et seq.* by misappropriating Baden's inflation
9 table design;

10 h. That Baden be entitled to injunctive and royalty remedies for misappropriation of
11 trade secret pursuant to RCW 19.108.020 in excess of \$75,000;

12 i. That Baden be entitled to damages for misappropriation of trade secret and
13 disgorgement of financial benefit and exemplary damages pursuant to RCW 19.108.030 in excess of
14 \$75,000;

15 j. That Baden be entitled to an award of attorney's fees for misappropriation of trade
16 secret pursuant to RCW 19.108.040;

17 k. That Baden be entitled to an injunction prohibiting Wilson from contacting Baden
18 vendors or Baden employees or former employees for the purpose of acquiring Baden's ball inflation
19 technology;

20 l. That Baden be entitled to any additional damages or relief that may not be
21 specifically stated above but are nevertheless permitted for violation of the statutes and laws pleaded
22 herein;

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m. That Baden be entitled to such further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Baden requests a trial by jury for all issues in this action.

DATED this 7th day of September 2011.

/s/ Philip McGrady

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CERTIFICATE OF SERVICE

I hereby certify that on September 7th, 2011, I served a copy of the foregoing on the Attorneys for the Defendant using electronic mail at the address listed below and registered with the ECF system for this matter.

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