

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CALLAWAY GOLF COMPANY,

Plaintiff,

v.

ACUSHNET COMPANY,

Defendant.

C. A. No. 06-91 (SLR)

EXHIBIT 1

STATEMENT OF FACTS WHICH ARE ADMITTED AND REQUIRE NO PROOF

Plaintiff and Defendant stipulate to the following admitted facts that require no proof:

1. Plaintiff Callaway Golf Company (“Callaway Golf”) is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business in Carlsbad, California.
2. Callaway Golf is the parent company of Callaway Golf Ball Operations, formerly known as The Top-Flite Golf Company (collectively, “Top-Flite”), which is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business in Chicopee, Massachusetts.
3. Defendant Acushnet Company (“Acushnet”) is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business in Fairhaven, Massachusetts.
4. Acushnet is a wholly-owned operating company of Fortune Brands, Inc. (“Fortune Brands”).

5. Fortune Brands is a publicly-traded corporation organized and existing under the laws of the State of Delaware.
6. United States Patent No. 6,210,293 (“the ’293 patent”) entitled “Multi-Layer Golf Ball” issued on April 3, 2001.
7. United States Patent No. 6,503,156 (“the ’156 patent”) entitled “Golf Ball Having Multi-Layer Cover With Unique Cover Characteristics” issued on January 7, 2003.
8. United States Patent No. 6,506,130 (“the ’130 patent”) entitled “Multi-Layer Golf Ball” issued on January 14, 2003.
9. United States Patent No. 6,595,873 (“the ’873 patent”) entitled “Multi-Layer Golf Ball” issued on July 22, 2003.
10. Michael J. Sullivan is the sole named inventor on the ’293, ’156, ’130, and ’873 patents (collectively “the patents-in-suit”).
11. United States Patent 4,274,637 (“Molitor ‘637”), entitled “Golf ball having cellular cover,” issued on June 23, 1981.
12. United States Patent 4,431,193 (“Nesbitt”), entitled “Golf ball and method of making same,” issued on February 14, 1984.
13. United States Patent 4,674,751 (“Molitor ‘751”), entitled “Golf ball having improved playability properties,” issued on June 23, 1987.
14. United States Patent 5,314,187 (“Proudfit”), entitled “Golf ball with improved cover,” issued on May 24, 1994.
15. United States Patent 5,334,673 (“Wu”), entitled “Polyurethane golf ball,” issued on August 2, 1994.

16. The effective priority date of the '293, 156, and '873 patents is November 9, 1995.
17. The effective priority date of the '130 patent is October 13, 1995.
18. Callaway Golf currently owns U.S. Patent Nos. 6,210,293; 6,503,156; 6,506,130; and 6,595,873 ("the patents-in-suit") and has owned them at all times pertinent to this case.
19. Acushnet's Titleist ProV1 golf balls are covered by and infringe:
 - Claims 1, 4 and 5 of U.S. Patent No. 6,210,293;
 - Claims 1, 2 and 3 of U.S. Patent No. 6,503,156;
 - Claim 5 of U.S. Patent No. 6,506,130; and
 - Claims 1 and 3 of U.S. Patent 6,595,873.
20. Acushnet's Titleist Pro V1x and Pro V1* golf balls are covered by and infringe:
 - Claims 4 and 5 of U.S. Patent No. 6,210,293;
 - Claims 1, 2 and 3 of U.S. Patent No. 6,503,156;
 - Claim 5 of U.S. Patent No. 6,506,130; and
 - Claims 1 and 3 of U.S. Patent 6,595,873.
21. Due to manufacturing variations, some small percentage of these golf balls may fall outside the claimed hardness range for the outer cover layer, and therefore, as a compromise, the parties stipulate and agree that 95% of all golf balls of each three types are covered by and infringe the claims identified above.