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7	Attorneys for Plaintiff		
8	UNITED STATES DISTRICT COURT		
9	FOR THE DISTRICT OF ARIZONA		
10	VyaTek Sports, Inc., an Arizona corporation,		
11	Plaintiff,	No	
12	v.		
13	Ping, Inc., an Arizona corporation; Karsten	COMPLAINT	
14	Manufacturing Corporation, an Arizona corporation,		
15	Defendants.		
16	Plaintiff, VyaTek Sports, Inc. ("VyaTek"), for its complaint against Defendants, alleges		
17	as follows:		
18	PARTIES, JURISDICTION, AND VENUE		
19	1. VyaTek is a corporation duly organized under the laws of the State of Arizona,		
20	with its principal place of business in Tempe, Arizona.		
21	2. Defendants, Ping, Inc. and Karsten Manufacturing Corporation (collectively		
22	<sup>2</sup> "Ping"), are Arizona corporations, doing business with a regular and established place of		
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24	business in Phoenix, Arizona.		
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- 3. This is an action for patent infringement arising under the patent laws of the United States, namely, 35 U.S.C. §§ 1, et seq. This Court has jurisdiction, pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1338(a).
  - 4. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c), and 1400(b).

## **GENERAL ALLEGATIONS**

- 5. VyaTek designs, manufactures, markets, and licenses certain products and technology, which are used in connection with sporting goods.
- 6. Ping designs, manufactures, markets, sells, distributes, and/or licenses sporting goods products, namely golf clubs. In particular, Ping designs, manufactures, markets, sells, offers for sale, and/or distributes its "Rapture" driver, a golf club, throughout the United States and the world.

## **COUNT ONE**

- 7. VyaTek incorporates the allegations contained in paragraphs 1-6.
- 8. On April 24, 2007, Patent No. 7,207,354 for "Design and Manufacturing Method of Multi-Material Tube Structures" issued. The patent is referred to herein as "the 354 Patent."
- 9. VyaTek is, and has been at all pertinent times, the owner by assignment of the 354 Patent.
- 10. VyaTek has complied with the statutory requirement of placing or requiring a notice of the patent on the applicable products it manufacturers, sells, or for which it has granted a license, and has given Ping written notice of the infringement.
- 11. Ping has infringed the 354 Patent by making, manufacturing, distributing, offering for sale, and/or selling a product or system, namely the Rapture driver, that falls within the scope of the 354 Patent claims.
- 12. Upon information and belief, Ping has contributorily infringed the 354 Patent by inducing others to use and practice a product or system that falls within the scope of the 354 Patent claims.

- 13. As a direct and proximate result of Ping's infringement, VyaTek has suffered damages.
- 14. Ping has continued to infringe and/or induce infringement of the 354 Patent even after having an opportunity to learn, study, and analyze the claims of the patent.
- 15. Upon information and belief, Ping will continue to infringe unless enjoined by the Court; Ping's infringement of the patent is willful; and VyaTek has no plain, speedy, or adequate remedy at law.

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- A. That Ping and its officers, agents, servants, employees, attorneys, successors and assigns, distributors, dealers, and those in active concert and participation with them be permanently enjoined from infringing the 354 Patent and from inducing others to infringe said patent;
  - B. That an accounting for damages be ordered;
- C. That VyaTek be awarded compensatory damages in an amount to be determined at trial;
  - D. That said damages be trebled, pursuant to 35 U.S.C. § 284;
  - E. That VyaTek be awarded attorneys' fees, pursuant to 35 U.S.C. § 285;
  - F. That VyaTek be awarded interest and costs; and
  - G. For such other relief as the Court deems just and proper.

## **COUNT TWO**

- 16. VyaTek incorporates the allegations contained in paragraphs 1-15.
- 17. On January 1, 2008, Patent No. 7,314,067 for "Design and Manufacturing Method for Multi-Material Tube Structures" issued. The patent is referred to herein as "the 067 Patent."
- 18. VyaTek is, and has been at all pertinent times, the owner by assignment of the 067 Patent.

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- 19. VyaTek has complied with the statutory requirement of placing or requiring a notice of the patent on the applicable products it manufacturers, sells, or for which it has granted a license, and has given Ping written notice of the infringement.
- 20. Ping has infringed the 067 Patent by making, manufacturing, distributing, offering for sale, and/or selling a product or system, namely the Rapture driver, that falls within the scope of the 067 Patent claims.
- 21. Upon information and belief, Ping has contributorily infringed the 067 Patent by inducing others to use and practice a product or system, namely the Rapture Driver, that falls within the scope of the 067 Patent claims.
- 22. As a direct and proximate result of Ping's infringement, VyaTek has suffered damages.
- 23. Ping has continued to infringe and/or induce infringement of the 067 Patent even after having an opportunity to learn, study, and analyze the claims of the patent.
- 24. Upon information and belief, Ping will continue to infringe unless enjoined by the Court; Ping's infringement of the patent is willful; and VyaTek has no plain, speedy, or adequate remedy at law.

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- A. That Ping and its officers, agents, servants, employees, attorneys, successors and assigns, distributors, dealers, and those in active concert and participation with them be permanently enjoined from infringing the 067 Patent and from inducing others to infringe said patent;
  - B. That an accounting for damages be ordered;
- C. That VyaTek be awarded compensatory damages in an amount to be determined at trial;
  - D. That said damages be trebled, pursuant to 35 U.S.C. § 284;
  - E. That VyaTek be awarded attorneys' fees, pursuant to 35 U.S.C. § 285;

1	F. That VyaTek be awarded interest and costs; and	
2	G. For such other relief as the Court deems just and proper.	
3	JURY DEMAND	
4	A trial by jury is hereby demanded as to all issues triable to a jury by law.	
5	DATED this 22 <sup>nd</sup> day of May, 2008	
6	MAYNARD CRONIN ERICKSOI CURRAN & SPARKS, P.L.C.	
7 8	By: <u>s/Douglas C. Erickson</u> Douglas C. Erickson	
9	Daniel D. Maynard Michael D. Curran	
10	1800 Great American Towe 3200 North Central Avenue Phoenix, Arizona 85012	
11	Attorneys for Plaintiff	
12	ORIGINAL of the foregoing filed this 22 <sup>nd</sup> day of May, 2008 via ECF with:  Clerk of the Court United States District Court 401 W. Washington	
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17	By s/Stacey Tanner	
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