

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

Civil Action No.

COLDSHOT, LLC,

Plaintiff,

v.

CABELA’S AND BASS PRO GROUP, LLC  
Dba BASS PRO SHOPS,

Defendants.

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**COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL**

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Plaintiff COLDSHOT, LLC (COLDSHOT) hereby complains of Defendants CABELA’S AND BASS PRO GROUP, LLC dba BASS PRO SHOPS (collectively “Defendants”) and alleges as follows:

**JURISDICTION AND VENUE**

1. This Complaint states causes of action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 100 *et seq.*, and, more particularly, 35 U.S.C §§ 271 and 281. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
2. On information and belief: Defendant BASS PRO GROUP, LLC owns CABELA’S, and they each conduct regular and ongoing business from stores in Colorado. Defendant BASS PRO GROUP, LLC has stores at 7970 Northfield Blvd., Denver, CO and 13012 Bass Pro Drive, Colorado Springs, CO., and CABELA’S has stores at 14050 Lincoln St.,

Thornton, CO, and 10670 Cabela Dr., Lone Tree, CO, and 2424 US Hwy 6 and 50, Grand Junction, CO, and Defendants offer sales of the infringing product via their websites. Defendants have committed the acts of infringement detailed herein within this judicial district.

3. Venue is proper in this judicial district under 28 U.S.C. § 1400(b).

### **PARTIES**

4. COLDSHOT, LLC is a Colorado limited liability company having its principal place of business at 2420 Applewood Cir., Grand Junction, CO 81506.
5. On information and belief, Defendant BASS PRO GROUP, LLC dba BASS PRO SHOPS is a Delaware corporation having its principal place of business at 2500 Kearney St., Springfield, MO 65803-5048.
6. On information and belief, Defendant Cabela's has its Corporate Headquarters at 1 Cabelas Dr., Sidney, NE 69162.

### **ALLEGATIONS FOR ALL CLAIMS**

#### **The COLDSHOT Patent**

7. On August 14, 2012, the United States Patent and Trademark Office ("PTO") issued U.S. Patent No. 8,240,075 (the '075 patent), titled "Adjustable Bases For Sighting Devices."
8. The '075 patent names James K. Mullin as sole inventor, and attorney of record, James K. Poole, submitted a Fee Address form to the patent office identifying Mullin as addressee for fee notices.
9. COLDSHOT is the owner by assignment of all right, title, and interest in the '075 patent. A true and correct copy of the '075 patent is attached hereto as Exhibit 1.

### The '075 Patent Overview

10. One aspect is to provide top and bottom rails in a base which are pivotally attached together at the forward or muzzle end when installed on a weapon and adapted so that the bottom rail can be removably attached to an attachment fixture of the weapon while the top of the upper rail can be removably attached to the accessory to be mounted. Another aspect of this structure is mechanical means for altering the position of the top rail and the sighting system attached thereto by elevating the rear or breech end of the upper rail. An aspect of this means is an index wheel rotationally attached to the bottom rail and interconnected with a threaded riser stem such that rotation of the index wheel moves the riser stem upward and forces the breech end of the upper rail upward through the movement of the threaded portion of the riser stem within a threaded hole centered in the index wheel. Another aspect is the interconnection between a head portion such as an oblong lobe on the upper end of the riser stem with a lateral pin or setscrew placed across a corresponding space such as an oblong hole in the breech end of the upper rail. Another aspect is to emplace the lateral pin so that it passes through a slot in the oblong lobe of the riser stem in such a way that the pin can slide longitudinally within the slot to maintain the vertical orientation of the riser stem as it is elevated or lowered and avoid jamming.
11. On January 18, 2014, James K. Mullin, inventor of the '075 patent, died.
12. Prior to Mr. Mullin's death he produced and sold a small number of the Adjustable Bases suited for rifles and their telescopic sights as claimed in the '075 patent.
13. Prior to Mr. Mullin's death, suffering from declining health, he executed a will and formed COLDSHOT, LLC, Plaintiff herein, with the intent that COLDSHOT, LLC,

would continue to run the Adjustable Base business; however, the will failed to transfer the '075 patent to either his son or to COLDSHOT.

14. Mr. Mullin failed to assign the '075 patent to COLDSHOT or to his son, Joseph (Jody) Calvin Mullin, who was, then, a minor child, and is now on active duty with the U.S. Navy.
15. At the time of Mr. Mullin's death the '075 patent was valid, and no maintenance fees were due yet.
16. On September 9, 2016 the '075 patent lapsed due to a failure to pay the three and a half year maintenance fee.
17. On that date, September 9, 2016, the executor of the estate, Larry Moyer, had not completed the affairs of the estate.
18. On or about May 6, 2017, Larry Moyer, as executor, signed an assignment of the '075 patent to COLDSHOT.
19. On or about May 12, 2017, the patent office received the signed assignment, and mailed the recordation information on June 30, 2017 to COLDSHOT.
20. On July 8, 2017, James K. Poole, registered patent attorney, on behalf of COLDSHOT filed a Petition to revive with funding from COLDSHOT.
21. On December 7, 2017 the '075 patent was revived.
22. The lapse of the '075 patent was unintentional as the inventor and owner, James K. Mullin, was deceased at the time of lapse, and no one had authority or funds to pay the fees until the patent was assigned to COLDSHOT.

23. On June 6, 2018 James K. Poole wrote a patent infringement notice letter to Ravin Crossbows, LLC, the manufacturer of the infringing Adjustable Base trademarked the “Ravin Crossbows Jack Plate Adjustable Scope Mount.”
24. On June 18, 2018 Karl Schwappach, Esq., general counsel for Ravin Crossbows, LLC responded that Ravin Crossbows, LLC did not need any license to practice the ‘075 patent inventions based on 35 U.S.C. 41 (c) (2) because allegedly Ravin went into production before the revival of the ‘075 patent.
25. The copying of the ‘075 patent Adjustable Base is so precise that improved parts such as the drilled threaded nut 46 and washer 45 shown in Exhibit 4, pages 3-7, were not even in the specification of the ‘075 patent.
26. The parts 45,46 represented in the illustration shown in the claims chart attached as Exhibit 4, as drawn at the bottom end of extension line 11A that passes through hole 14 and fastened by nut 46, were introduced in June, 2017 by Heritage Arms, Inc., Loma, Colorado as an upgraded version of the original patented product marked as: COLDSHOT Models (Minute Of Angle Base) MOAB 150 and MOAB 300 as well as the (Mil Radian Adjustable Base) MRAB 72 and MRAB 144, under a patent license from COLDSHOT.
27. By information and belief the “Ravin Crossbows Jack Plate Adjustable Scope Mount” was first offered for sale by Defendants in 2018, after the revival of the ‘075 patent.
28. The Heritage Arms MOAB 150 can mount perfectly on a Crossbow and replace the Ravin accused device.

### **DEFENDANTS' INFRINGING ACTIVITIES**

29. Defendants sell the "Ravin Crossbows Jack Plate Adjustable Scope Mount", see Exhibits 2 and 3.
30. The Ravin Crossbows Jack Plate Adjustable Scope Mount infringes at least claim 1 of the '075 patent as illustrated in the claims chart attached as Exhibit 4.
31. Defendants do not have a license to the '075 patent to make, use, sell, offer for sale, or import into the United States Of America the Ravin Crossbows Jack Plate Adjustable Scope Mount.

### **FIRST CLAIM FOR RELIEF**

(Patent Infringement of U.S. Pat. No. 8,240,075, 35 U.S.C. §271.)

32. COLDSHOT repeats and re-alleges the allegations of paragraphs 1-31 of this Complaint as if set forth fully herein.
33. Defendants knew or should have known of the '075 patent in 2018, before offering the accused device for sale, by doing a simple patent search for example on patents.google.com and entering the words "telescopic sight base elevation wheel adjust," wherein the '075 patent is the first patent listed.
34. Defendants' acts of infringing at least claim 1 of the '075 patent include marketing, sale and promotion of the "Ravin Crossbows Jack Plate Adjustable Scope Mount."
35. Defendants' acts of infringing were undertaken without permission or a license from COLDSHOT.
36. Defendants' actions constitute willful infringement of the '075 patent, entitling COLDSHOT to enhanced damages under 35 U.S.C. §284 and attorneys' fees and costs under 35 U.S.C. §285.

37. On information and belief, Defendants have derived and received, and will continue to derive and receive profits from the aforesaid acts of infringement in an amount that is not presently known to COLDSHOT. By reason of the aforesaid infringing acts, COLDSHOT has been damaged and is entitled to monetary relief in an amount to be determined.

**PRAYER FOR RELIEF**

COLDSHOT respectfully prays for the following relief:

- A. an order adjudging Defendants to have infringed the '075 patent;
- B. an award of damages adequate to compensate COLDSHOT for Defendants' patent infringement;
- C. an on-going royalty for any future infringement or an injunction prohibiting future infringement;
- D. an order adjudging Defendants to have willfully infringed the '075 patent and declaring this to be an exceptional case;
- E. an order trebling damages and/or exemplary damages because of Defendants' intentional and willful conduct;
- F. an award of pre-judgement and post-judgement interest and costs of this action against Defendants;
- G. an award to COLDSHOT of its attorneys' fees incurred in connection with this action; and
- H. such other and further relief as the Court deems just and proper.

Dated this 23<sup>rd</sup> day of August, 2018.

RESPECTFULLY SUBMITTED,

PATENT LAW OFFICES OF RICK  
MARTIN, P.C.

*Original Signature on File at the Offices of  
Patent Law Offices of Rick Martin, P.C.*

*/s/ Ralph Martin*

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**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules Of Civil Procedures, Plaintiff COLDSHOT, LLC hereby demands a trial by jury on all issues so triable.

Dated this 23<sup>rd</sup> day of August, 2018.

RESPECTFULLY SUBMITTED,

PATENT LAW OFFICES OF RICK  
MARTIN, P.C.

*Original Signature on File at the Offices of  
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