

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LOGGERHEAD TOOLS, LLC,)	
)	
Plaintiff,)	Case No. 1:12-cv-09033
)	
)	Honorable Rebecca R. Pallmeyer
)	
)	
SEARS HOLDINGS CORPORATION)	JURY TRIAL DEMANDED
and APEX TOOL GROUP, LLC,)	
)	
Defendants.)	

**DECLARATION OF CHRISTOPHER BOKHART IN SUPPORT OF LOGGERHEAD'S
MEMORANDUM IN SUPPORT OF ITS MOTION FOR ENTRY OF JUDGMENT,
AWARD OF PREJUDGMENT AND POST-JUDGMENT INTEREST AND COSTS, AND
IDENTIFICATION OF THE APPLICABLE SCHEDULE FOR LOGGERHEAD'S
MOTION FOR ATTORNEY'S FEES AND NONTAXABLE EXPENSES**

I, Christopher Bokhart, hereby declare as follows:

1. I submitted an expert report in this litigation dated April 15, 2016 (the “Report”) that provides information about my background and qualifications.
2. The Report addressed, among other issues, LoggerHead’s damages from the Defendants’ infringement of LoggerHead’s U.S. Patent No. 6,889,579 and U.S. Patent No. 7,922,470.
3. I am over the age of 21 years and am competent to make this declaration. All of the statements set forth herein are true and correct.
4. Defendants’ infringement consisted of the sale of 770,384 infringing Max Axess Locking Wrenches (“MALWs”).
5. LoggerHead’s counsel has asked me to calculate the amount of prejudgment interest owed on the damages of \$5,979,616 awarded by the jury to LoggerHead in this litigation.
6. Attached as Exhibit A to this declaration is a true and correct copy of a spreadsheet (the “Spreadsheet”) that I created to show those amounts.
7. The jury’s award of \$5,979,616 equals an effective per wrench royalty rate for 6-inch MALWs of \$7.00 and an effective per wrench royalty rate for 8-inch MALWs of \$8.00. In order to arrive at an award of \$5,979,616, the jury first multiplied the 183,456 6-inch MALWs Apex sold by a \$7.00 per-unit royalty to arrive at \$1,284,192 in royalties on the 6-inch MALWs.¹ The jury then multiplied the 586,928 8-inch MALWs Apex sold by an \$8.00 per-unit royalty to arrive at \$4,695,424 in royalties owed on the 8-inch MALWs.² The sum of these amounts equals the \$5,979,616 of royalties awarded by the jury.
8. I have calculated the reasonable royalty that Defendants would have paid LoggerHead each quarter from September 2012 to November 2015 for sales of infringing Max Axess

¹ See APEX0018943.

² See *Id.*

Locking Wrenches in each of the quarters during that period, based on the effective per wrench royalty rates.

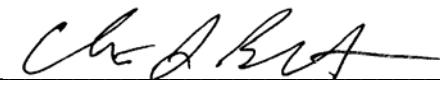
9. If the parties had negotiated for royalty payments, they are likely to have provided that the payments would be made quarterly based on sales during each quarter. Parties to a license agreement commonly agree to make payments on a quarterly basis.
10. The use of Defendants' unsecured borrowing rate is an appropriate rate to consider since they are unsecured debtors to LoggerHead.
11. Prejudgment interest should be calculated by applying the prejudgment interest rate to the reasonably royalty payments due each quarter. Damages in each quarter are assumed to accrue at the end of the quarter and to be paid within 45 days. Interest earned in June 2017 reflects the prorated number of days through June 22, 2017.
12. The Spreadsheet shows my calculations of the amount of prejudgment interest using each of (i) an 8% interest rate and (ii) a rate calculated at the prime rate plus 2% in each of the quarters during the period from September 2012 to June 22, 2017.
13. I determined the prime rate by reviewing the daily H.15 Selected Interest Rates reports issued by the Board of Governors of the Federal Reserve System. I accessed those reports at <https://www.federalreserve.gov/releases/H15/default.htm>. The average prime rate was 3.25% in September 2012, was increased to 3.50% on December 17, 2015, was increased to 3.75% on December 15, 2016, was increased to 4.00% on March 16, 2017, and was increased to 4.25% on June 15, 2017.
14. To determine the amount of prejudgment interest, I: (1) multiplied the number of 6-inch and 8-inch Max Axess Locking Wrenches sold each month by the respective \$7 or \$8 per wrench royalty rate to determine the monthly royalty amount, as shown on Exhibit A.4;

(2) added the monthly royalty amounts in each quarter to determine the quarterly royalty amount, as shown on Exhibit A.4; (3) determined the quarterly interest rates for both the 8% interest rate and the prime rate plus 2%; (4) multiplied the quarterly royalty amount by the quarterly rate for each of the 8% interest rate and the prime rate plus 2%, as shown on Exhibits A.2 and A.3, respectively; (5) compounded the interest quarterly, as shown on Exhibits A.2 and A.3, and; (6) added the total compounded interest to the damages award, as shown on Exhibits A.2 and A.3. Based on this analysis, from September 2012 to June 22, 2017, Defendants owe LoggerHead \$2,128,476 in prejudgment interest based on an 8% interest rate or \$1,380,360 in prejudgment interest based on an interest rate of the prime rate plus 2%, as shown on Exhibit A.1.

15. Prejudgment interest that accrues each day from June 22, 2017 until the date the Court enters judgment is \$1,696 using an interest rate of 8% or \$1,173 using the prime rate currently in effect plus 2%, as shown on Exhibit A.1.

[The following page is the signature page.]

The undersigned has executed this Declaration on June 22, 2017.



Christopher Bokhart