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PATENT UPHELD

Pacbrake announced today that the United States Patent and Trademark office had issued a certificate in a request for reexamination affirming the validity of US Patent No. 4,848,289 that had been granted to Pacbrake on its revolutionary P-37 combination retarder. Jacobs Vehicle Equipment had requested reexamination of the patent in 2003. The PTO decision upheld the validity of all claims as originally granted and denied Jacobs' arguments that the patent was invalid in view of prior art.

In May 1993, Jacobs brought a declaratory judgment suit in the United States District Court for the District of Connecticut contending that the '289 patent was invalid and that it was not infringed by any Jacobs product. Pacbrake responded that the '289 patent is valid and is infringed by engine retarders developed and sold by Jacobs for Mitsubishi, Volvo and later Mack Trucks. In addition, Pacbrake claimed that DH Holdings Inc. and Danaher Corporation, Jacobs' parents, are legally responsible for the infringement. Pacbrake has claimed that the infringement is willful and has sought treble damages, attorney fees and an injunction.

Vince Meneely, President of Pacbrake and inventor of the '289 patent said, "We are pleased with the decision of the PTO upholding the validity of the '289 patent. We obtained the patent to protect the retarder technology that we developed for the revolutionary P-37 engine retarder. The PTO decision, made by four patent examiners, puts to an end any doubts about the validity of the '289 patent." He added, "Jacobs, DH and Danaher have been willfully infringing the patent. We learned recently that they have introduced products for additional Mitsubishi engines and for engines made by DAF, Renault and Hino. Now that the validity of the patent has been upheld, we look forward to a quick decision finding willful infringement and imposing treble damages and an injunction. We believe that the damages will be very substantial."

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