

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

AMERIFAB, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 1:04-CV-1331 LJM-WTL
)	
VOEST-ALPINE INDUSTRIES, INC.)	JURY TRIAL DEMANDED
)	
Defendant.)	
)	

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

The plaintiff, AmeriFab, Inc. (“AmeriFab”), for its Amended Complaint for Patent Infringement against the defendant, Voest-Alpine Industries, Inc. (“Defendant”), alleges and states as follows:

PARTIES, JURISDICTION AND VENUE

1. AmeriFab is an Indiana corporation with its principal place of business in Indianapolis, Indiana.
2. On information and belief, Defendant is a Delaware corporation having a place of business in Pittsburgh, Pennsylvania.
3. This is a complaint for patent infringement pursuant to 35 U.S.C. § 271 et. seq. This Court has subject matter jurisdiction over AmeriFab’s claims pursuant to 28 U.S.C. §§ 1331 and 1338.
4. The Court has personal jurisdiction over Defendant because it has done business in Indiana, including business that gives rise to the claims asserted in this Complaint.
5. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

DEFENDANT'S PATENT INFRINGEMENT

6. AmeriFab is the owner of United States Patent No. 6,330,269 (the "'269 patent"), issued on December 11, 2001 and entitled "Heat Exchanger Pipe with Extruded Fins." The '269 patent relates to cooling pipes used in an electric arc furnace ("EAF") used in steel making.

7. Defendant is in the business of, among other things, selling cooling pipes.

8. Defendant is infringing the '269 patent by making, using, offering for sale, selling, and/or importing cooling pipes that are covered or in a manner that is covered by one or more claims of the '269 patent, is actively inducing and/or contributing to the infringement of the '269 patent either in or outside of the United States, and will continue to infringe, induce infringement of, and contributorily infringe the '269 patent unless enjoined by the Court.

9. Upon information and belief, Defendant's infringement, inducement of infringement, and contributory infringement of the '269 patent has been willful and in complete disregard of, or with indifference to, AmeriFab's rights and interests.

10. AmeriFab has suffered damage as a result of the Defendant's infringement, inducement of infringement, and contributory infringement to date.

11. This is an exceptional case as that term is defined in 35 U.S.C. § 285.

WHEREFORE, AmeriFab prays that this Court:

1. Issue an Order directing the Defendant and its officers, agents, servants, employees, and attorneys, and those acting in concert and participation with them who receive actual notice of the order, to destroy all molds, machines, tooling, or other equipment used in the manufacture of items infringing the '269 patent.

2. Award AmeriFab monetary damages adequate to compensate AmeriFab for past infringement, inducement of infringement, and contributory infringement of the '269 patent

consistent with 35 U.S.C. § 284, up to and including treble the amount of actual damages assessed, together with costs and prejudgment interest.

3. Award AmeriFab its reasonable attorneys' fees pursuant to 35 U.S.C. § 285.
4. Award any and all relief found necessary and proper under these circumstances.

JURY DEMAND

AmeriFab demands a trial by jury.

Dated: March 11, 2005

s/ James R. Sweeney, II

Donald E. Knebel (5261-49)
James R. Sweeney (19589-49)
Spencer P. Goodson (24608-49)
BARNES & THORNBURG LLP
11 S. Meridian Street
Indianapolis, IN 46204
Telephone: (317) 236-1313
Facsimile: (317) 231-7433

Attorneys for Plaintiff, AmeriFab, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this AMENDED COMPLAINT FOR PATENT INFRINGEMENT has been filed electronically this 11th day of March, 2005. Parties may access this filing through the Court's system. Notice of this filing will be sent to the following by operation of the Court's electronic filing system:

R. Eric Gaum
HAHN LOESER & PARKS LLP
One GOJO Plaza, Suite 300
Akron, OH 44311-1079
regaum@hahnlaw.com

The undersigned attorney certifies that a copy of the foregoing was mailed by First Class mail, postage prepaid, to the following:

Edward F. Welsh
ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP
Law and Finance Building, Suite 707
429 Fourth Avenue
Pittsburgh, PA 15219
efwelsh@acba.org

s/ James R. Sweeney, II
James R. Sweeney, II