

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Case No. 13-cv-01040-SRN-FLN

Point Source Solutions, Inc.,

Plaintiff,

JURY TRIAL DEMANDED

v.

BEC Technologies, Inc., R.P.S. Products,
Inc., Menard, Inc., Glasfloss Industries, LP,
and Quality Filters, Inc.,

Defendants.

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Point Source Solutions, Inc. (“Point Source”), for its First Amended Complaint against Defendants BEC Technologies, Inc., R.P.S. Products, Inc., Menard, Inc., Glasfloss Industries, LP, and Quality Filters, Inc., alleges as follows:

JURISDICTION, VENUE AND JOINDER

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.* and, more particularly, 35 U.S.C. §§ 271 and 281.
2. This Court has subject matter jurisdiction pursuant to 28 U.S. C. §§ 1331 and 1338(a).
3. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).
4. Joinder is proper under 35 U.S.C. § 299. Upon information and belief, the allegations of infringement contained herein arise out of the same series of occurrences

relating to the same air-permeable filter products manufactured by Defendant BEC Technologies, Inc., and offered for sale and/or sold in the United States by Defendants R.P.S. Products, Inc., Menard, Inc., Glasfloss Industries, LP, and Quality Filters, Inc., and, upon information and belief, other third parties.

THE PARTIES

5. Point Source Solutions, Inc. is a Minnesota corporation having its principal place of business in Waseca, Minnesota. Point Source is the assignee with all right, title and interest to patents issued by the United States Patent and Trademark Office for inventions relating to air-permeable filter media. Point Source does business in the State of Minnesota and in this District. Point Source sells air-permeable filter media products utilizing Point Source's patented technology.

6. Upon information and belief, Defendant BEC Technologies, Inc. ("BEC") is a Colorado corporation with a place of business in Colorado Springs, Colorado. Upon information and belief, BEC manufactures and offers for sale throughout the United States air-permeable filter media used in the infringing products at issue herein offered for sale and sold by Defendants R.P.S. Products, Inc., Menard, Inc., Glasfloss Industries, LP, and Quality Filters, Inc., including the infringing air-permeable filter media products sold in this District by those defendants. Upon information and belief, BEC places air-permeable filter media into the stream of commerce with the reasonable expectation and/or knowledge that the actual and potential ultimate purchasers and users of the products are located in Minnesota, as well as elsewhere in the United States. Upon information and belief, BEC has had continuous and systematic contacts with the State of

Minnesota and this District through its efforts to solicit, market and/or sell infringing air-permeable filter media products throughout the United States.

7. Upon information and belief, Defendant R.P.S. Products, Inc. (“RPS”) is an Illinois corporation with a place of business in Hampshire, Illinois. Upon information and belief, RPS manufactures and offers for sale throughout the United States the infringing air-permeable filter media products at issue herein, including in this District, including the products sold under the names “BestAir Extreme Odors Pollen & Allergens Air Cleaning Filter.” Upon information and belief, RPS places infringing air-permeable filter media products into the stream of commerce with the reasonable expectation and/or knowledge that the actual and potential ultimate purchasers and users of the products are located in Minnesota, as well as elsewhere in the United States. Upon information and belief, RPS has had continuous and systematic contacts with the State of Minnesota and this District through its efforts to solicit, market and/or sell infringing air-permeable filter media products throughout the United States.

8. Upon information and belief, Defendant Menard, Inc. (“Menards”) is a Wisconsin corporation with a place of business at Eau Claire, Wisconsin. Upon information and belief, Menards offers for sale and sells air-permeable filter media products purchased from RPS at issue herein throughout the United States, including in this District, including the products sold under the name “BestAir Extreme Odors Pollen & Allergens Air Cleaning Filter.” Upon information and belief, Menards places infringing air-permeable filter media products into the stream of commerce with the reasonable expectation and/or knowledge that the actual and potential ultimate purchasers

and users of the products are located in Minnesota, as well as elsewhere in the United States. Upon information and belief, Menards has had continuous and systematic contacts with the State of Minnesota and this District through its efforts to solicit, market and/or sell air-permeable filter media products at issue herein and numerous other products generally.

9. Upon information and belief, Defendant Glasfloss Industries, LP (“Glasfloss”) is a Texas limited partnership with a place of business in Dallas, Texas. Upon information and belief, Glasfloss manufactures and offers for sale throughout the United States the infringing air-permeable filter media products at issue herein, including in this District, including the products sold under the names “Glasfloss Z-Line Carbotron Filter.” Upon information and belief, Glasfloss places infringing air-permeable filter media products into the stream of commerce with the reasonable expectation and/or knowledge that the actual and potential ultimate purchasers and users of the products are located in Minnesota, as well as elsewhere in the United States. Upon information and belief, Glasfloss has had continuous and systematic contacts with the State of Minnesota and this District through its efforts to solicit, market and/or sell infringing air-permeable filter media products throughout the United States.

10. Upon information and belief, Defendant Quality Filters, Inc. (“Quality Filters”) is an Alabama corporation with a place of business in Robertsdale, Alabama. Upon information and belief, Quality Filters manufactures and offers for sale throughout the United States the infringing air-permeable filter media products at issue herein, including in this District, including the products sold under the name “OdorBan Pleated

Carbon Panel Filters.” Upon information and belief, Quality Filters places infringing air-permeable filter media products into the stream of commerce with the reasonable expectation and/or knowledge that the actual and potential ultimate purchasers and users of the products are located in Minnesota, as well as elsewhere in the United States. Upon information and belief, Quality Filters has had continuous and systematic contacts with the State of Minnesota and this District through its efforts to solicit, market and/or sell infringing air-permeable filter media products throughout the United States.

THE PATENTS-IN-SUIT

11. Point Source is the assignee possessing all substantial right, title and interest in United States Patent No. 7,416,581 (“‘581 patent”), entitled “Air-Permeable Filter Media, Methods of Manufacturer and Methods of Use,” which issued August 26, 2008. Accordingly, Point Source has standing to sue for infringement of the ‘581 patent.

12. Point Source is the assignee possessing all substantial right, title and interest in United States Patent No. 7,892,326 (“‘326 patent”), entitled “Air-Permeable Filter Media and Related Systems,” which issued February 22, 2011. Accordingly, Point Source has standing to sue for infringement of ‘326 patent.

COUNT I – PATENT INFRINGEMENT

13. Point Source realleges the allegations in the preceding paragraphs as if fully restated in Count I of this Complaint.

14. Upon information and belief, Defendants have been, and still are, directly infringing, either literally or under the doctrine of equivalents, one or more claims of the ‘581 and ‘326 patents by importing, making, using, selling and/or offering to sell in the

United States air-permeable filter media products at issue herein, including in this District, including the products sold under the names “BestAir Extreme Odors Pollen & Allergens Air Cleaning Filter,” “Glasfloss Z-Line Carbotron Filter,” and Quality Filters’ “OdorBan Pleated Carbon Panel Filters.”

15. Upon information and belief, Defendants have been and still are indirectly infringing, either literally or under the doctrine of equivalents, one or more claims of the ‘581 and ‘326 patents by inducing one another, other third parties, and end-users to infringe claims of the ‘581 and ‘326 patents by using, offering for resale and/or reselling in the United States air-permeable filter media products at issue herein, including in this District, including the products sold under the names “BestAir Extreme Odors Pollen & Allergens Air Cleaning Filter,” “Glasfloss Z-Line Carbotron Filter,” and Quality Filters’ “OdorBan Pleated Carbon Panel Filters.”

16. Upon information and belief, Defendant BEC has been and still is contributing to Defendants R.P.S. Products, Inc., Menard, Inc., Glasfloss Industries, LP, and Quality Filters, Inc.’s direct infringement, either literally or under the doctrine of equivalents, of one or more claims of the ‘581 and ‘326 patents, by selling within the United States air-permeable filter media used in the infringing products at issue herein, including in this District, including the products sold under the names “BestAir Extreme Odors Pollen & Allergens Air Cleaning Filter,” “Glasfloss Z-Line Carbotron Filter,” and Quality Filters’ “OdorBan Pleated Carbon Panel Filters,” constituting a material part of the claimed invention, knowing the same to be especially made or especially adapted for

use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

17. Upon information and belief, Defendants' infringement of the '581 and '326 patents has been willful and deliberate, rendering this case "exceptional" within the meaning of 35 U.S.C. § 285.

18. Point Source has been damaged by Defendants' infringement of the '581 and '326 patents. Unless restrained and enjoined by this Court, Defendants will continue to infringe the '581 and '326 patents resulting in substantial, continuing, and irreparable damage to Point Source.

19. Point Source has complied with the notice requirements of 35 U.S.C. § 287(a) with respect to the '581 and '326 patents.

DEMAND FOR JUDGMENT

WHEREFORE, Point Source demands judgment as follows:

- A. That Defendants be adjudged to have infringed the '581 and '326 patents;
- B. That the '581 and '326 patents be adjudged valid and enforceable;
- C. That Defendants be adjudged to have willfully and deliberately infringed the '581 and '326 patents;
- D. That Defendants, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, be preliminarily and permanently restrained and enjoined from further infringement of the '581 and '326 patents;

- E. An accounting and an award of damages by virtue of Defendants' infringement of the '581 and '326 patents;
- F. An award of treble damages because of Defendants' willful infringement of the '581 and '326 patents, in accordance with 35 U.S.C. § 284;
- G. An assessment of prejudgment and post-judgment interest and costs against Defendants, together with an award of such interest and costs, all in accordance with 35 U.S.C. § 284;
- H. That the present case be adjudged an "exceptional case" within the meaning of 35 U.S.C. § 285 and reasonable attorneys' fees be awarded pursuant thereto; and
- I. An award of such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the Seventh Amendment to the Constitution of the United States, Point Source hereby demands a trial by jury of all issues triable in the above action.

Dated: May 30, 2013

ANTHONY OSTLUND BAER
& LOUWAGIE, P.A.

By: s/Courtland C. Merrill
Courtland C. Merrill (#311984)
3600 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402
Tel: (612) 349-6969
Fax: (612) 349-6996
Email: cmerrill@aoblaw.com

*Attorneys for Plaintiff Point Source
Solutions, Inc.*