

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

J-CHANNEL INDUSTRIES CORPORATION,

Plaintiff,

v.

**LOWE'S COMPANIES, INC., AND
TAFCO CORPORATION,**

Defendants.

Case No. 3:13-cv-476

PATENT CASE

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff J-Channel Industries Corporation files this Complaint against Lowe's Companies, Inc. and Tafco Corporation for infringement of U.S. Reissue Patent No. 40,041 ("the '041 reissue patent").

THE PARTIES

1. J-Channel Industries Corporation ("JCI") is a corporation organized and existing under the laws of Delaware having an address at 900 Walt Whitman Road, Melville, NY 11747.

2. Defendant Lowe's Companies, Inc. ("Lowe's") is a North Carolina corporation with its principal place of business in Mooresville, North Carolina. Lowe's may be served with process through its registered agent, Corporation Service Company, 327 Hillsborough St., Raleigh, NC 27603.

3. Defendant Tafco Corporation ("Tafco") is an Illinois corporation with its principal place of business in Melrose Park, Illinois. Tafco may be served with process through its registered agent in the State of Illinois, William A. Walker, 200 W. Adams St., Suite 2500, Chicago, IL 60606.

4. Defendants Lowe's and Tafco are referred to collectively herein as "Defendants."

JURISDICTION AND VENUE

5. This is an action for patent infringement under Title 35 of the United States Code.

6. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States' patent statutes, 35 U.S.C. § 101 *et seq.*

7. Venue is proper under 28 U.S.C. §§ 1391(c) and 1400(b) because Defendants have committed acts of infringement in this district and/or are deemed to reside in this district.

8. This Court has personal jurisdiction over Lowe's and venue is proper in this district because Lowe's has committed acts of infringement in the State of Tennessee, including in this district, and has engaged in continuous and systematic activities in the State of Tennessee, including in this district. Lowe's regularly conducts business in this district and has retail stores located in this district, including but not limited to 5 locations within 25 miles of Knoxville, exemplified by a store location at 6600 Clinton Hwy., Knoxville, TN 37912. Therefore, Lowe's has engaged in continuous and systematic activities in this district and has purposefully availed itself of the privileges of conducting business in this district.

9. This Court has personal jurisdiction over Tafco and venue is proper in this district because Tafco has committed acts of infringement in the State of Tennessee, including in this district and has engaged in continuous and systematic activities in the State of Tennessee, including in this district. For instance, Tafco has, at a minimum, engaged in systematic activities in the State of Tennessee by virtue of its business dealings with Lowe's. Additionally, on information and belief, Tafco markets and sells its window products throughout the United States and in particular within the State of Tennessee. Therefore, Tafco has engaged in continuous and

systematic activities in this district and has purposefully availed itself of the privileges of conducting business in this district.

COUNT I
(INFRINGEMENT OF U.S. REISSUE PATENT NO. 40,041)

10. JCI incorporates paragraphs 1 through 9 herein by reference.

11. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

12. The '041 reissue patent is entitled, "Window Frame for Manufactured Housing." JCI is the assignee of the '041 reissue patent with ownership of all substantial rights in the '041 reissue patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringement. A true and correct copy of the '041 reissue patent is attached as Exhibit 1.

13. The '041 reissue patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

(Direct Infringement)

14. Defendants have directly infringed one or more claims of the '041 reissue patent in this judicial district and/or elsewhere in Tennessee and the United States, including at least claim 1, without the consent or authorization of JCI, by or through their having made, offered for sale, and/or used products that infringe the '041 reissue patent. Defendants are thereby liable for infringement of the '041 reissue patent pursuant to 35 U.S.C. § 271.

15. More particularly, Defendants have infringed at least claim 1 of the '041 reissue patent by, among other things, having made, used, offered for sale, sold, and/or imported windows having an integral J-Channel, including but not limited to Tafco's Project Source 18-in

x 24-in Utility Series Vinyl Single Pane New Construction Single Hung Window (Lowe's Model # VSH1824). Defendants are liable for these direct infringements of the '041 reissue patent pursuant to 35 U.S.C. § 271.

16. In accordance with Fed. R. Civ. P. 11(b)(3), JCI will likely have additional evidentiary support after a reasonable opportunity for discovery on this issue.

ADDITIONAL ALLEGATIONS PERTAINING TO PATENT INFRINGEMENT CLAIMS

17. JCI has been damaged as a result of Defendant's infringing conduct described herein. Defendants are, thus, liable to JCI in an amount that adequately compensates JCI for Defendants' infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by the Court under 35 U.S.C. § 284.

JURY DEMAND

JCI hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

JCI requests that this Court find in its favor and against Defendants, and that this Court grant JCI the following relief:

- a. Enter judgment for JCI on this Complaint;
- b. Enter judgment that one or more claims of the '041 reissue patent has been directly infringed by Defendants;
- c. Enter judgment that Defendants account for and pay to JCI all damages to and costs incurred by JCI because of Defendants' infringing activities and other conduct complained of herein;

- d. Enter judgment that Defendants account for and pay to JCI a reasonable royalty because of Defendants' past infringing activities and other conduct complained of herein;
- e. Award JCI pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and
- f. Award JCI such other and further relief as the Court may deem just and proper under the circumstances.

DATED: August 7, 2013

Respectfully submitted,

/s/ Van R. Irion

Van R. Irion

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