

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA

SOUTHEASTERN METALS  
MANUFACTURING COMPANY, INC.,

Plaintiff,

CASE NO. : 3:13-cv-844-J-34MCR

v.

STAMPCO, INC.,

Defendant.

---

**AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, Southeastern Metals Manufacturing Company, Inc. (“Plaintiff” or “SEMCO”), for its complaint against defendant Stampco, Inc. (“Stampco” or “Defendant”), alleges as follows:

**PARTIES**

1. Plaintiff is a corporation located at 11801 Industry Drive, Jacksonville, Florida 32218.
2. Upon information and belief, Defendant is a Florida corporation with a place of business located at 2930 Mercury Road Jacksonville, Florida 32207.

**JURISDICTION AND VENUE**

3. This is an action for pecuniary and injunctive relief for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code §§ 1 *et. seq.*
6. This Court has jurisdiction over the subject matter of this action as provided for in 28 U.S.C. §1331 and §1338. Venue is proper in this District pursuant to 28 U.S.C. §1391 and §1400.
7. Upon information and belief, this Court has jurisdiction over Defendant because Defendant is located in this District.

### **FACTUAL BACKGROUND**

8. This is an action for infringement of United States Patent Number 7,044,852 (“the ‘852 Patent” or “Plaintiff’s Patent”), pursuant to the Patent Act.

9. Plaintiff is the owner of the ‘852 Patent for an “Off-Ridge Roof Vent.”

10. The ‘852 Patent originally issued on May 16, 2006 and on June 3, 2013 received certificate of re-examination. A copy of the Certificate of Re-examination of the ‘852 Patent is attached hereto as Exhibit “A.”

11. Plaintiff’s off-ridge roof vent products covered by the claims of the ‘852 Patent are marked with the ‘852 Patent number.

12. Plaintiff, among other things, is in the business of manufacturing and selling metal building components including roof vents.

13. Upon information and belief, Defendant, among other things, are in the business of manufacturing and selling metal building components including roof vents.

14. Plaintiff has become aware of Defendant’s sale of off-ridge roof vents including, but not limited to, “Stampco Ventilator,” an off-ridge vent with deflector, that infringes on one or more claims of the ‘852 Patent.

15. Upon information and belief, Defendant continues to sell the infringing vents.

16. Upon information and belief, Defendant willfully infringes one or more claims of the ‘852 Patent.

### **INFRINGEMENT OF THE ‘852 PATENT**

17. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1 through 16 as if fully set forth herein.

18. Pursuant to 35 U.S.C. § 282 the ‘852 Patent is presumed valid.

19. Defendant's activities constitute infringement of one or more claims of the '852 Patent.

20. Upon information and belief, Defendant intentionally induces its customers to infringe one or more claims of the '852 Patent.

21. Defendant obtained Florida building code approval to sell its Stampco Ventilator in regions with highly velocity driven rain by representing and submitting an off-ridge ventilator design that infringes one or more claims of the '852 Patent.

22. Upon information and belief, Defendant advertises and provides its customers with instructions and direction to configure and install its Stampco Ventilator with three baffles (or two baffles and a "deflector") that meets the building code in a manner that infringes one or more claims of the '852 Patent.

23. Upon information and belief, Defendant will continue to infringe the '852 Patent unless enjoined by this Court.

24. As a result of Defendant's infringing conduct, Plaintiff has been irreparably damaged to an extent not yet determined and Plaintiff will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court.

25. The infringement of the '852 Patent has injured the Plaintiff. Plaintiff is entitled to recover damages in an amount that adequately compensates Plaintiff for Defendant's infringement, which, in no event, can be less than a reasonable royalty.

**REQUESTED RELIEF**

WHEREFORE, Plaintiff prays for a judgment against Defendant as follows:

- A. That Defendant be declared to have infringed, induced others to infringe, and/or committed acts of contributory infringement, with respect to the claims of '852 Patent;
- B. That Defendant, its officers, agents, servants, employees, attorneys, parents, subsidiaries, affiliates, successors, and all others in active concert or participation with them or acting on their behalf be permanently enjoined from further infringement and/or inducing others to infringe the '852 Patent;
- C. That Defendant be ordered to account for and pay to Plaintiff all damages caused to Plaintiff by reason of Defendant's infringement and/or inducement of infringement of the '852 Patent pursuant to 35 U.S.C § 284, including enhanced damages;
- D. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Defendant's infringement of the '852 Patent;
- E. That this matter be declared an "exceptional case" pursuant to 35 U.S.C. § 285 and that Defendant be ordered to pay Plaintiff's attorney fees and costs; and
- F. That Plaintiff is granted such other and further relief as the case may require and the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38, Fed. R. Civ. P., Plaintiff demands a jury trial for all issues triable of right by a jury in this case.

Dated: August 9, 2013

Respectfully submitted,

By: /s/ Lorri Lomnitzer  
Lorri Lomnitzer  
Florida Bar No.: 37632  
Lorri@Lomnitzerlaw.com  
Meredith & Keyhani, PLLC

7999 N. Federal Highway, Suite 200  
Boca Raton, FL 33487  
Telephone: (561) 953-9300  
Direct: (561) 953-9301  
Fax: (561) 953-3455

And

By: /s/ Dariush Keyhani  
Dariush Keyhani, Esq. (*Pro Hac*  
*Vice to be pending*)  
dkeyhani@lippes.com  
LIPPES, MATHIAS, WEXLER &  
FRIEDMAN, LLP  
665 Main Street, Suite 300  
Buffalo, New York 14203  
Telephone: 716-898-8938

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 9 day of August, 2013, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ Lorri Lomnitzer  
Lorri Lomnitzer  
Florida Bar No.: 37632  
lorri@lomnitzerlaw.com

**SERVICE LIST**

**SOUTHEASTERN METALS MANUFACTURING COMPANY, INC. v. STAMPCO,  
INC.,  
CASE NO. 3:13-cv-844-J-34MCR  
United States District Court, Middle District of Florida**

Dariusz Keyhani, Esq.  
dkeyhani@lippes.com  
Lippes, Mathias, Wexler & Friedman, LLP  
665 Main Street, Suite 300  
Buffalo, New York 14203  
Telephone: 716-898-8938  
Facsimile: 716-299-2499  
(Counsel for Plaintiff)

Christopher J. Greene, Esq.  
cgrene@pfhglaw.com  
Lindsay A. Cole, Esq.  
lcole@pfhglaw.com  
Purcell, Flanagan, Hay & Greene, P.A.  
1548 Lancaster Terrace  
Jacksonville, Florida 32204  
Telephone: (904) 355-0355  
Facsimile: (904) 355-0820