

THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

_____)	
SOUTHEASTERN METALS MANUFACTURING)	
COMPANY, INC.,)	Case No.: 3:11-cv-1058-HES-20JBT
)	
Plaintiff,)	
)	AMENDED COMPLAINT
-against-)	
)	JURY TRIAL
MILLENNIUM METALS, INC. & THOMPSON)	DEMANDED
ARCHITECTURAL METALS COMPANY)	
)	
Defendants.)	
_____)	

AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Southeastern Metals Manufacturing Company, Inc. (“Plaintiff” or “SEMCO”), for its complaint against Defendant Millennium Metals, Inc. (“Millennium”) and Defendant Thompson Architectural Metals Company (“Thompson”)(hereinafter Thompson and Millennium collectively “Defendants”), alleges as follows:

PARTIES

1. Plaintiff is a corporation located at 11801 Industry Drive, Jacksonville, Florida 32218.
2. Upon information and belief, Defendant Millennium is a Florida corporation with a place of business at 1333 Haines Street Exp. Jacksonville, FL 32202.
3. Upon information and belief, Defendant Thompson is a Florida corporation with a place of business at 5015 E. Hillsborough Avenue Tampa, FL 33610.

JURISDICTION AND VENUE

4. 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 Defendants because Defendants are 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 an Ex Parte Reexamination Certificate. A copy of the reexamined '852 Patent is attached hereto as **Exhibit A** (hereinafter “the Reexamined '852 Patent”).

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

12. Defendants, among other things, are in the business of manufacturing and selling building components including roof vents.

13. On or about January 8, 2007, Plaintiff brought to Defendants’ attention that Millennium’s “MI Off Ridge Vent” and Thompson’s Standard Off Ridge Vent with Permanent Baffle infringe one or more claims of Plaintiff’s Patent and demanded that Defendants cease and desist from manufacturing and selling the infringing vents. A copy of the cease and desist letters are attached to this Complaint as **Exhibit B**.

14. Defendant Millennium's "MI Off Ridge Vent" and Defendant Thompson's "Off Ridge Vent with Baffle" infringe one or more claims of the Reexamined '852 Patent.

15. Upon information and belief, Defendants continue to sell the infringing vents.

16. Upon information and belief, Defendants willfully infringe 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 Reexamined '852 Patent is presumed valid.

19. Defendants' activities constitute infringement of one or more claims of the Reexamined '852 Patent.

20. Upon information and belief, Defendants will continue to infringe one or more claims of the Reexamined '852 Patent unless enjoined by this Court.

21. As a result of Defendants' 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 Defendants are enjoined by this Court.

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

REQUESTED RELIEF

WHEREFORE, Plaintiff pray for a judgment against Defendants as follows:

- A. That Defendants be declared to have infringed, induced others to infringe, and/or committed acts of contributory infringement, with respect to the claims of the Reexamined '852 Patent;
- B. That Defendants, their 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 Reexamined '852 Patent;
- C. That Defendants be ordered to account for and pay to Plaintiff all damages caused to Plaintiff by reason of Defendants' infringement and/or inducement of infringement of the Reexamined '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 Defendants' infringement of the Reexamined '852 Patent;
- E. That this matter be declared an "exceptional case" pursuant to 35 U.S.C. § 285 and that Defendants 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: October 3, 2013

Respectfully submitted,

By: /s/ Lorri Lomnitzer
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