

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

The Viking Corporation,
a Michigan corporation,

Plaintiff,

vs.

Civil Action No:

Victaulic Company
a New Jersey corporation,

Defendant.

George D. Moustakas (P41631)
Stephanie L. Dowdy (P77225)
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COMPLAINT FOR PATENT INFRINGEMENT
AND DEMAND FOR JURY TRIAL

This is an action for patent infringement in which Plaintiff, The Viking Corporation (“Viking” or “Plaintiff”) makes the following allegations against Defendant, Victaulic Company (“Victaulic” or “Defendant”):

The Parties

1. The Viking Corporation is a Michigan Corporation having its principal place of business at 210 North Industrial Park Drive, Hastings, Michigan.

2. Upon information and belief, Victaulic Company is a New Jersey corporation having its principal place of business at 4901 Kesslersville Road, Easton, Pennsylvania.

3. Upon information and belief, Victaulic regularly conducts in this judicial district and elsewhere throughout the United States. Victaulic may be served with process through its registered agent.

Nature of the Action

4. This action for patent infringement is based on United States Patent No. 7,845,599 (“the ‘599 Patent”) (attached as Exhibit A) under the Patent Laws of the United States 35 U.S.C. § 1 *et seq.*

Jurisdiction and Venue

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.*

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b). On information and belief, Defendant has transacted business in this District, and has committed acts of patent infringement in this District.

7. On information and belief, Defendant is subject to this Court’s specific and general personal jurisdiction pursuant to due process and/or Michigan Long Arm Statute, due at least to its substantial business in this forum, including (i) making, using, selling, offering for sale or importing, or inducing same of others, for at least a portion of the infringement alleged

herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided in Michigan and in this District.

The Patent-in-Suit

8. On December 7, 2010, the ‘599 Patent, titled “Mounting Coupling for Sprinkler Support System,” was duly and legally issued by the United States Patent and Trademark Office (“USPTO”). The ‘599 Patent is directed, among other things, to a sprinkler support system.

9. The Viking Corporation is the assignee of all right, title and interest in the ‘599 Patent (“Patent-in-Suit”), and possess all rights to sue and recover for any current or past infringement of the Patent-in-Suit.

10. The ‘599 Patent is valid and enforceable.

11. Plaintiff has complied with the patent marking statute, 35 U.S.C. § 287, by providing constructive and/or actual notice.

Count I
Infringement of U.S. Patent No. 7,845,599

12. Paragraphs 1-11 are incorporated by reference as if fully restated herein.

13. On information and belief, Victaulic has infringed and continues to infringe, directly and/or indirectly, one or more claims of the ‘599 Patent, literally and/or under the doctrine of equivalents, in this District and elsewhere in the United States, in violation of 35 U.S.C. § 271, by (i) manufacturing, making, using, selling, offering for sale, a sprinkler support system that infringes one or more claims of the ‘599 patent; and/or (ii) by contributing to and/or inducing infringing by others, by providing a sprinkler control system in a manner that infringes

one or more claims of the '599 patent. The infringing product includes, but is not limited to, the VicFlex Sprinkler Support System as shown and described, for example, in Exhibits B-D.

14. Victaulic's acts of infringement of the '599 Patent will continue, without authority or license, unless this Court enjoins Victaulic's infringing activities.

15. On information and belief, Victaulic's continued infringement, without cessation, represent willful and deliberate conduct. Victaulic's infringing activities constitute and/or will constitute acts of willful infringement, warranting the assessment of increased damages pursuant to 35 U.S.C. § 284, an award of attorney's fees and costs, as such actions warrant an exceptional case pursuant to 35 U.S.C. § 285.

16. On information and belief, Victaulic markets products, including the VicFlex Sprinkler Ceiling Suspension System, that competes with Plaintiffs' products based on the technology in the '599 Patent. Through such activities, Victaulic competes for and misappropriates sales and profits for Plaintiffs' products based on the technology in the '599 Patent. As a result of the sale and/or distribution of Victaulic's infringing product, Plaintiff has had lost revenue, profits and/or royalties and has suffered irreparable harm.

17. Plaintiff has been, is being, and will continue to be damaged by Victaulic's infringing activities. Plaintiff's harm resulting from Victaulic's infringement includes harm that is irreparable and that cannot be remedied in its entirety by the recovery of money damages. Plaintiff does not have an adequate remedy at law.

Prayer for Relief

WHEREFORE, Plaintiff The Viking Corporation respectfully requests that this Court enter judgment against Defendant, as follows:

- A. Adjudging that the Defendant has directly infringed, literally or under the doctrine of equivalents, the Patent-in-Suit;
- B. Awarding Plaintiff damages to which it is entitled under 35 U.S.C. § 284 for Defendants' past infringement and any continuing or future infringement up until the date Defendant is finally and permanently enjoined from further infringement, and ordering a full account of same;
- C. Awarding Plaintiff enhanced damages, up to and including trebling of Plaintiff's damages pursuant to 35 U.S.C. § 284, for Defendants' willful infringement of the Patent-in-Suit;
- D. Awarding Plaintiff attorneys' fees pursuant to 35 U.S.C. § 285, for Defendants' willful infringement of the Patent-in-Suit;
- E. Awarding Plaintiff pre-judgment and post-judgment interest on its damages; and
- F. Awarding Plaintiff such other and further relief in law or equity that the Court deems just and proper.

Demand for Jury Trial

Plaintiff hereby demands a trial by jury on all claims and issues so triable.

Dated: December 9, 2013

Respectfully submitted,

By: s/ George D. Moustakas /
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