



3. In 1946, brothers Carl and Ed Anstett founded the PowerNail Company and together developed revolutionary nailing products that greatly simplified hardwood flooring and sub-flooring installation. For over 65 years, PowerNail has been the premier manufacturer and supplier of flooring nailers and cleats.

4. Throughout its history, PowerNail has been continuously based in the Chicago area where it presently employs 37 full-time employees.

5. Since January 2012 PowerNail has been manufacturing, selling, and marketing a pneumatic nailer product in this judicial district (and elsewhere) under the name Power Palm™ (“Power Palm product”).

6. The Power Palm product is produced under the ‘554 patent.

7. PowerNail has continuously marked its Power Palm product with the ‘554 patent throughout the relevant time period.

**The Defendant Lumber Liquidators, Inc.**

8. Upon information and belief, Defendant Lumber Liquidators is a Virginia company with a principal place of business in Toano, Virginia, including a place of business at 3000 John Deere Road, Toano, VA 23168.

9. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of Delaware and may be served through its agent Illinois Corporation Service Co., 801 Adlai Stevenson Drive, Springfield, IL 62703.

10. Upon information and belief, Defendant Lumber Liquidators operates multiple

stores within the State of Illinois, including a handful within this Judicial District, including stores in Arlington Heights, Bolingbrook, Chicago, Cicero, Lombard, Naperville, Oak Lawn, Tinley Park, and West Chicago. Upon information and belief, these stores are selling an infringing guide bushing and/or a fastener-driving product, including, for example, the Norge Air Nailer, Palm Single Cleat 16G-18G product being sold under the Norge Tool Company brand.

### **Jurisdiction and Venue**

1. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338.

2. This Court has personal jurisdiction over Defendants by virtue of, *inter alia*: (1) their presence in Illinois and this judicial district; (2) their systematic and continuous contacts with Illinois and this judicial district; and (3) their marketing of one or more products and/or service within the State of Illinois.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b) because Defendant has committed acts of infringement in the Northern District of Illinois and has transacted business in the Northern District of Illinois.

### **Facts**

11. On May 29, 2012, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 8,186,554 (“the ‘554 patent”) entitled, “Tapered Guide Bushing for Reciprocating Driver and Tool Incorporating Same” to Keith Daniel Abla. A true and correct copy of the ‘554 patent is attached hereto as Exhibit “A.”

12. PowerNail is the owner of all rights, title, and interest in and to the '554 patent by assignment, including the right to sue and recover for past and future infringement.

13. Defendant has infringed, and continues to infringe, directly, contributorily, and/or through the inducement of others, the claims of the '554 patent through manufacturing, having manufactured, selling, or offering for sale an infringing guide bushing and/or a fastener-driving tool.

14. Defendant is aware of the '554 patent, has knowledge of the infringing nature of Defendant's activities, but has nevertheless continued its infringing activities. Defendant's infringing activities have been and continue to be willful. Defendant was previously provided actual notice of the '554 patent.

15. PowerNail has been damaged as a result of Defendant's infringing conduct. Defendant is, therefore, liable to PowerNail in an amount that adequately compensates PowerNail for Defendant's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. §284.

### **COUNT I**

#### **Patent Infringement under 35 U.S.C. § 271**

16. PowerNail incorporates by reference paragraphs 1-15 of this Complaint.

17. On information and belief, Defendant sells, offers for sale, manufactures, and has manufactured, products within the scope of one or more claims of the '554 patent, and is liable for infringement of one or more claims of the '554 patent pursuant to 35 U.S.C. § 271, either literally or under the Doctrine of Equivalents

18. Defendant's infringement of the '554 patent was and continues to be willful and was with actual and/or constructive knowledge of the '554 patent.

19. PowerNail has been substantially and irreparably harmed by Defendant Lumber Liquidators' infringing activities and has been damaged as a result of such infringing activities.

20. PowerNail does not have an adequate remedy at law.

21. PowerNail is entitled to damages in an amount to be determined at trial but in no case less than a reasonable royalty as a result of Defendant Lumber Liquidators' infringing activities.

#### **Relief Sought**

- A) A judgment and decree that the '554 patent is valid and enforceable;
- B) A judgment that Defendant Lumber Liquidators infringed the '554 patent under 35 U.S.C. § 271;
- C) A permanent injunction restraining and enjoining Lumber Liquidators and their respective officers, agents, servants, and employees, and those persons in active concert or participation with any of them, from engaging in the commercial manufacturing, sale, offer for sale or use within the United States, or importation into the United States, of a guide bushing and/or a fastener-driving tool that infringe the '554 patent;
- D) An award of monetary relief for Lumber Liquidators' infringement of the '554 patent within the United States, and that any such monetary relief be awarded to PowerNail with prejudgment interest;

E) An order, pursuant to 35 U.S.C. § 284, and based on Defendant's willful infringement of the '554 patent enhancing all damages awarded to PowerNail by trebling such damages;

F) A declaration that this case is exceptional and that PowerNail is entitled to an award of attorneys' fees from Defendants Lumber Liquidators under 35 U.S.C. § 285; and

F) Such other and further relief as the Court may deem just and proper.

**Demand For Jury Trial**

PowerNail demands a jury trial on all issues for which a jury trial is permissible.

Dated: November 21, 2013

By:                   /s/ Jordan A. Sigale                    
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