

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

BILFINGER WATER TECHNOLOGIES, INC.,)
)
 Plaintiff,)
)
 v.)
)
 HENDRICK MANUFACTURING CO., d/b/a)
 HENDRICK SCREEN CO.)
)
 Defendant.)
 _____)

C.A. NO. 4:14-cv-01164

JURY TRIAL DEMANDED

**PLAINTIFF BILFINGER WATER TECHNOLOGIES, INC.’S
ORIGINAL COMPLAINT**

1. Plaintiff Bilfinger Water Technologies, Inc. brings this action pursuant to 35 U.S.C. § 1 *et seq.* against Defendant Hendrick Manufacturing Co., d/b/a Hendrick Screen Co., for patent infringement, and alleges as follows:

PARTIES

2. Plaintiff Bilfinger Water Technologies, Inc. (“Bilfinger Water Technologies”) is a Delaware corporation with its principal place of business at 1950 Old Highway 8 NW, New Brighton, Minnesota 55112. Bilfinger Water Technologies also maintains a place of business in this State and District at 11811 North Freeway, 5th Floor, Houston, Texas 77060.

3. Upon information and belief, Hendrick Manufacturing Co., d/b/a Hendrick Screen Co. (“Hendrick”), is a Pennsylvania corporation with a principal place of business at 3074 Medley Road, Owensboro, Kentucky 42301.

4. Upon information and belief, Hendrick designs, manufactures, offers for sale, sells, and uses water intake screens and related products throughout the United States, including in this State and District.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendant Hendrick consistent with the principles underlying the U.S. Constitution and Tex. Civ. Prac. & Rem. Code § 17.042 because, upon information and belief, Defendant Hendrick is doing business in this State and District and/or has sufficient minimum contacts with this State to support the exercise of personal jurisdiction.

7. Venue is proper in the United States District Court for the Southern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT I
PATENT INFRINGEMENT – 35 U.S.C. § 271

8. Bilfinger Water Technologies is the owner, by assignment, of all right, title, and interest in and to United States Patent No. 8,297,448 (“the ‘448 patent”), entitled “Screen Intake Device for Shallow Water.” A true and correct copy of the ‘448 patent is attached hereto as Exhibit A.

9. The ‘448 patent was duly and lawfully issued by the United States Patent and Trademark Office on October 30, 2012. Bilfinger Water Technologies and its predecessors-in-interest have owned the ‘448 patent since its issuance, and Bilfinger Water Technologies continues to own the ‘448 patent.

10. The '448 patent and all of its claims are presumed valid pursuant to 35 U.S.C. § 282.

11. Bilfinger Water Technologies is a leader in the supply of systems, components, and services in the area of water and wastewater technology.

12. Defendant Hendrick is engaged in the business of designing, making, offering for sale, selling, and using water intake screens and related products.

13. On information and belief, Defendant Hendrick has been offering for sale and selling, and presently is offering for sale and selling, water intake screens that infringe one or more claims of the '448 patent.

14. On information and belief, Defendant Hendrick has offered for sale a screen intake apparatus comprising a solid base having a top surface and being disposed in a water source; a body mounted on the top surface of the base, the body having first and second ends and defining a hollow therein, the body having an outlet in communication with the hollow; a first half cylinder screen disposed on the first end of the body, sealingly mounted on the top surface of the base, and defining a first interior; at least one first flow modifier disposed between the first screen and the body and placing the first interior in fluid communication with the hollow; a second half cylinder screen disposed on the second end of the body, sealingly mounted on the top surface of the base, and defining a second interior; and at least one second flow modifier disposed between the second screen and the body and placing the second interior in fluid communication with the hollow.

15. On information and belief, Defendant Hendrick has offered for sale water intake screens and related products for use in a public works project commissioned by Loudoun

County, Virginia (“the Loudoun Project”). A true and correct copy of the specifications for the Loudoun Project is attached hereto as Exhibit B.

16. On information and belief, water intake screens that comply with the specifications for the Loudoun project infringe at least the independent claim of the ‘448 patent.

17. Defendant Hendrick has committed the acts of infringement complained of herein without the consent or authorization of Bilfinger Water Technologies and in derogation of 35 U.S.C. § 271.

18. Defendant Hendrick’s actions have been intentional, willful, malicious, and in complete disregard of the patent rights held by Bilfinger Water Technologies. On information and belief, Defendant Hendrick had full knowledge of the ‘448 patent by no later than November 18, 2013, but has continued to offer for sale its infringing water intake screens.

19. Defendant Hendrick’s activities have caused and will continue to cause damage to Bilfinger Water Technologies by, *inter alia*, harming Bilfinger Water Technologies’ sales, the reputation of Bilfinger Water Technologies and its products, and Bilfinger Water Technologies’ goodwill in the market.

20. Bilfinger Water Technologies is suffering irreparable harm and damage as a result of Defendant Hendrick’s acts in an amount not yet determined.

21. Defendant Hendrick’s unlawful conduct has irreparably harmed Bilfinger Water Technologies, and unless enjoined, will continue to harm Bilfinger Water Technologies through injury and loss to Bilfinger Water Technologies’ business, reputation, and goodwill in the market. Bilfinger Water Technologies has no adequate remedy at law to redress these injuries.

22. Bilfinger Water Technologies is entitled to damages from Defendant Hendrick pursuant to 35 U.S.C. § 284 and injunctive relief from this Court pursuant to 35 U.S.C. § 283.

WHEREFORE, Plaintiff respectfully requests that the Court enter a judgment:

(A) Holding that Defendant Hendrick has infringed the '448 patent;

(B) Awarding Bilfinger Water Technologies damages adequate to compensate for all such unauthorized acts of infringement pursuant to 35 U.S.C. § 284;

(C) To the extent applicable, declaring this case as exceptional in favor of Bilfinger Water Technologies pursuant to 35 U.S.C. § 285;

(D) Awarding Bilfinger Water Technologies its attorneys' fees and other costs and expenses;

(E) Awarding Plaintiff interest to the extent permitted by law;

(F) Permanently enjoining Defendant Hendrick from any other acts of infringement; and

(G) Awarding such other and further relief as this Court deems just and equitable.

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

Dated: April 28, 2014

Respectfully submitted,

By: /s/ J. David Cabello
(by permission Billy C. Allen III)

J. David Cabello

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