

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

1.	CDC LARUE INDUSTRIES, INC. and)	
2.	CHRISTY, INC.,)	
	both Oklahoma corporations,)	
)	
	Plaintiffs,)	Case No. 14-cv-286-CVE-FHM
)	
	v.)	Honorable Claire V. Eagan
)	
3.	BLACK & DECKER (U.S.) INC.)	
	a Maryland corporation,)	
)	
	Defendant.)	

AMENDED COMPLAINT

Plaintiffs CDC Larue Industries, Inc. (“CDC”) and Christy, Inc. (“Christy”), through their undersigned counsel, hereby brings this Amended Complaint against Defendant Black & Decker (U.S.) Inc. (“Black & Decker”).

THE PARTIES

1. CDC is a corporation organized and existing under the laws of the State of Oklahoma with its principal place of business in Tulsa County, State of Oklahoma.

2. Christy, Inc. is a corporation organized and existing under the laws of the state of Oklahoma with its principal place of business in Tulsa County, Oklahoma.

3. Upon information and belief, Black & Decker is a corporation existing under the laws of the state of Maryland with its principal place of business in Towson, Maryland.

JURISDICTION, VENUE AND JOINDER

4. This Court may exercise subject matter jurisdiction over the case pursuant to 28 U.S.C. §§1331, 1332 and 1338 since this case arises under the patent laws of the United States, 35 U.S.C. §271.

5. This Court has specific personal jurisdiction over Black & Decker because the infringing acts conducted by Black & Decker occurred in this State and District and are the same infringing acts which constitute the instant cause of action. This Court has general personal jurisdiction over Black & Decker because Black & Decker has regularly and systematically conducted business in this State and District and purposefully availed itself of the privilege of conducting business in this State and this District.

6. Venue is proper in this District under 28 U.S.C. §§1391 and 1400.

FACTUAL BACKGROUND

7. Plaintiffs incorporate by reference the allegations contained in each preceding paragraph as if fully set forth herein.

8. CDC was founded in 2003 by David McCutchen and is primarily engaged in the manufacture and sale of industrial vacuums.

9. On July 18, 2003, Mr. McCutchen filed a patent application titled, “Ambient Air Backflushed Filtered Vacuum” and on August 1, 2006, after a full and extensive examination, the United States Patent and Trademark office duly and legally issued United States Patent No. 7,082,640 (“the ‘640 Patent”). Upon issuance, the ‘640 Patent was immediately assigned to Christy and licensed back to CDC. A copy of the ‘640 Patent is attached as Exhibit A.

10. Prior to Mr. McCutchen's invention, industrial vacuums were inefficient in high-dust environments because the vacuum's filters quickly became clogged with dust and dirt particles. The vacuum operator would too-often have to stop the vacuum, remove and shake-out the filters, re-install the filters, and resume operation. Not only was this time consuming, the procedure also caused proliferation of airborne dust particles.

11. Realizing the inefficiency and negative health effects, Mr. McCutchen designed a revolutionary, cost effective, industrial vacuum which prevented dust particles from clogging the filters. Mr. McCutchen's design accomplishes this by periodically allowing a pulse of ambient air to "backflush" through the filters, thereby knocking-off dust and dirt particles from the filters. This "pulse" of ambient air acts as a split-second "hammer" which bangs the dust and dirt off the filter and occurs without interruption of service, thus allowing for more efficient and healthier operation.

12. CDC manufactures industrial vacuums at CDC's Tulsa County facility under the tradename Pulse-Bac[®] and has marked its Pulse-Bac[®] machines with the '640 Patent number since its issuance.

13. In 2008, Black & Decker expressed interest in CDC's Pulse-Bac[®] technology and began communicating with CDC about a possible business venture. On December 16, 2008, CDC and Black & Decker entered into an agreement titled, Mutual Confidential Relationship Agreement ("MCRA"). With the MCRA in place, CDC allowed Black & Decker's engineers to spend enormous amounts of time communicating with CDC's engineers and meeting at CDC's manufacturing facility in Tulsa County to

learn more about CDC's Pulse-Bac[®] engineering.

14. Notwithstanding the existence of the MRCA, Black & Decker secretly designed a dust extractor that infringes the '640 Patent, and in 2012, introduced it to the market under the trade name "Dewalt 10-Gal Dust Extractor with Automatic Filter Clean."

15. By continuing to make and sell its Dewalt Dust Extractor, Model DWV012, Black & Decker has infringed and continues to infringe one or more of the claims of the '640 Patent pursuant to 35 U.S.C. §271.

16. Upon information and belief, Black & Decker has been on notice of the '640 Patent and has continued to make, use, and sell products that infringe the '640 Patent, thus, Black & Decker's infringement has been willful.

WHEREFORE, CDC Larue Inc. and Christy, Inc. pray that a judgment be entered in their favor and against DeWalt, Inc. and Stanley Black & Decker, Inc. as follows:

- a. Black & Decker be found to infringe United States Patent No. 7,082,640;
- b. CDC and Christy be awarded damages pursuant to 35 U.S.C. §284;
- c. Black & Decker's infringement be found to be willful and damages be trebled pursuant to 35 U.S.C. §284;
- d. Christy and CDC be awarded prejudgment interest;
- e. CDC and Christy be awarded its attorney fees pursuant to 35 U.S.C. §285; and
- f. Any further and just relief the Court deems equitable and appropriate.

JURY DEMAND

Plaintiff hereby requests a trial by jury on all triable issues.

Dated September 11, 2014

Respectfully Submitted,

By: /s/Mark M. Grossman

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**ATTORNEYS FOR PLAINTIFFS CDC LARUE
INC. AND CHRISTY, INC.**

CERTIFICATE OF SERVICE

I, Mark M. Grossman, caused to be served upon counsel listed below the foregoing Amended Complaint by filing same on September 12, 2014 with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following Defendants' counsel of record:

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/s/ Mark M. Grossman