

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Civil Action No.: 1:14-cv-650

PRECISION FABRICS GROUP, INC.,

Plaintiff,

v.

TIETEX INTERNATIONAL, LTD.,

Defendant.

AMENDED COMPLAINT

(Jury Trial Demanded)

Plaintiff Precision Fabrics Group, Inc. (“PFG” or “Plaintiff”), a North Carolina corporation, state as their Amended Complaint for Patent Infringement against Defendant Tietex International, Ltd. (“Tietex” or “Defendant”) as follows:

THE PARTIES

1. PFG is a corporation formed under the laws of the State of North Carolina, having a principal place of business at 301 North Elm Street, Suite 600, Greensboro, North Carolina 27401.

2. Upon information and belief, Tietex is a corporation formed under the laws of the State of South Carolina, having a principal place of business at 3010 North Blackstock Road, Spartanburg, South Carolina 29304.

JURISDICTION AND VENUE

3. This is an action for federal patent infringement pursuant to 35 U.S.C. § 1 *et seq.*

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

5. This Court has personal jurisdiction over the Defendant because Defendant is offering for sale and selling, through established streams of commerce throughout the United States, including to customers and potential customers in this judicial district, products which infringe PFG's rights as alleged herein.

6. Venue is proper in this District and this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b) because acts of infringement and other wrongful conduct alleged occurred in the Middle District of North Carolina.

FACTUAL BACKGROUND

7. PFG is the owner, by assignment, of all right, title, and interest in and to United States Patent No. 8,501,639 ("the '639 Patent") entitled "Thermally Protective Flame Retardant Fabric." See Exhibit A.

8. The '639 Patent was duly and lawfully issued by the United States Patent and Trademark Office on August 6, 2013.

9. A Certificate of Correction for the '639 Patent was issued by the United States Patent and Trademark Office on September 17, 2013 ("the Certificate of Correction").

10. On August 6, 2013, before the Certificate of Correction issued, PFG filed an action in this Court against Tietex for infringement of the '639 Patent denominated Civil Action No. 1:13-cv-645 ("the '639 Patent Litigation"). In the '639 Patent

Litigation, the parties' contentions have long included the claims of the '639 Patent as corrected in the Certificate of Correction.

11. PFG is the owner, by assignment, of all right, title, and interest in and to United States Patent No. 8,796,162 ("the '162 Patent") entitled "Thermally Protective Flame Retardant Fabric."

12. The '162 Patent was duly and lawfully issued by the United States Patent and Trademark Office on August 5, 2014.

13. The '162 Patent is a continuation of Application Serial No. 10/143,833.

14. On July 30, 2014, PFG requested that Tietex consent to a motion by PFG to amend the Complaint in the '639 Litigation to specifically allege that its claims include the '639 Patent as corrected by the Certificate of Correction, and to add a claim against Tietex for infringement of the '162 Patent ("PFG's Motion to Amend").

15. On July 31, 2014, Tietex stated that it would not consent to PFG's Motion to Amend. With respect to the corrected claims of the '639 Patent, Tietex stated without authority that PFG's Motion to Amend allegedly "is out of time and because this is jurisdictional, we [Tietex] do not believe that you can 'fix' the problem by merely amending the complaint." Tietex further stated that while Tietex does not consent, Tietex will not file an opposition. With respect to adding the '162 Patent to the '639 Patent Litigation, Tietex stated that PFG's request allegedly was premature because the '162 Patent had not yet issued.

16. PFG is filing a motion for a supplemental and amended complaint in the '639 Patent Litigation to specifically allege that PFG's claims include the '639 Patent as corrected by the Certificate of Correction and to add a claim against Tietex for infringement of the '162 Patent. In an abundance of caution, should the Court find that PFG's Motion to Amend does not relate back to the filing date of the '639 Patent Litigation, PFG is filing this action and will move in the '639 Patent Litigation to consolidate this action with the '639 Patent Litigation.

17. Upon information and belief, Tietex is a manufacturer of a broad and diverse range of fabrics, including fabrics that have a single layer of a non-woven, stitch-bonded substrate treated with an intumescent substance.

COUNT I – PATENT INFRINGEMENT
(U.S. Patent No. 8,796,162)

18. PFG repeats and realleges each and every allegation of paragraphs 1 through 17 as though fully set forth herein.

19. Upon information and belief, Tietex has infringed and continues to infringe the '162 Patent in violation of 35 U.S.C. § 271, literally and/or under the doctrine of equivalents, by, without limitation, making, using, offering for sale and/or selling, through established streams of commerce throughout the United States, including to customers and potential customers in this judicial district, fabrics that have a single layer of a non-woven, stitch-bonded substrate treated with an intumescent substance that are covered by at least Claim 1 of the '162 Patent.

20. Tietex has committed the acts of infringement complained of herein without the consent or authorization of PFG and in derogation of 35 U.S.C. § 271.

21. PFG has been and will continue to be damaged by Tietex's infringement of the '162 Patent.

22. PFG is entitled to damages from Tietex, pursuant to 35 U.S.C. § 284 and injunctive relief pursuant to 35 U.S.C. § 283, for Tietex's infringement of the '162 Patent.

COUNT II – PATENT INFRINGEMENT
(U.S. Patent No. 8,501,639)

23. PFG repeats and realleges each and every allegation of paragraphs 1 through 22 as though fully set forth herein.

24. Upon information and belief, Tietex has infringed and continues to infringe the '639 Patent as corrected by the Certificate of Correction in violation of 35 U.S.C. § 271, literally and/or under the doctrine of equivalents, by, without limitation, making, using, offering for sale and/or selling, through established streams of commerce throughout the United States, including to customers and potential customers in this judicial district, fabrics that have a single layer of a non-woven, stitch-bonded substrate treated with an intumescent substance that are covered by at least Claim 1 of the '639 Patent as corrected by the Certificate of Correction.

25. Tietex has committed the acts of infringement complained of herein without the consent or authorization of PFG and in derogation of 35 U.S.C. § 271.

26. PFG has been and will continue to be damaged by Tietex's infringement of the '639 Patent.

27. Tietex has had actual knowledge of PFG's claim of infringement of the '639 Patent as corrected by the Certificate of Correction since no later than February 28, 2014, when Tietex filed a motion to amend its answer and counterclaims in the '639 Patent Litigation in light of the Certificate of Correction. Notwithstanding its knowledge of the corrected claims of the '639 Patent, as well as PFG's allegations of infringement, Tietex has continued to infringe the '639 Patent as corrected by the Certificate of Correction as alleged herein.

28. On information and belief, Tietex's infringement of the '639 Patent as corrected by the Certificate of Correction has been and continues to be willful, making this an exceptional case under 35 U.S.C. § 285 and entitling PFG to treble damages under 35 U.S.C. § 284.

29. PFG is entitled to damages from Tietex, pursuant to 35 U.S.C. § 284 and injunctive relief pursuant to 35 U.S.C. § 283, for Tietex's infringement of the '639 Patent.

DEMAND FOR JURY TRIAL

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the entry of a judgment:

A. Holding that Tietex has infringed one or more claims of the '162 Patent;

B. Holding that Tietex has infringed one or more claims of the '639 Patent as corrected by the Certificate of Correction;

C. In favor of PFG, and against Tietex, that Tietex's infringement of the '639 Patent as corrected by the Certificate of Correction has been and continues to be willful;

D. Awarding PFG all available damages pursuant to 35 U.S.C. § 284 for Tietex's infringement of the '162 Patent and '639 Patent as corrected by the Certificate of Correction;

E. Awarding PFG interest to the extent permitted by law;

F. Permanently enjoining Tietex from any further acts of infringement; and

G. Awarding such other and further relief as this Court may deem just and proper.

This the 16th day of October, 2014.

/s/ Richard A. Coughlin

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UNITED STATES DISTRICT COURT
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Civil Action No.: 1:13-cv-00645

PRECISION FABRICS
GROUP, INC.,

Plaintiff,

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TIETEX INTERNATIONAL,
LTD.,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to counsel of record.

/s/ Richard A. Coughlin

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