

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DOUGLAS DYNAMICS, LLC,

Plaintiff,

vs.

BUYERS PRODUCTS COMPANY,

Defendant.

CIVIL ACTION NO.: 3:09-CV-00261

JUDGE CONLEY

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Buyers Products Company (“Buyers”), defendant in the above named case, hereby files this notice of appeal to the United States Court of Appeals for the Federal Circuit from each of the following:

1. The Court’s Amended Judgment entered January 5, 2015 (Dkt. 806);
2. The Court’s Judgment entered April 21, 2014 (Dkt. 732);
3. The Court’s Order of December 31, 2014 (Dkt. 805):
 - a. Denying Buyers’ Renewed Motion for Judgment as a Matter of Law under FRCP 50(b) or, in the Alternative, for New Trial under FRCP 59(a) (Dkt. 757);
 - b. Denying Buyers’ Motion to Alter or Amend Judgment, and in the Alternative, for New Trial (Dkt. 755, submitted prior to judgment as Dkt. 696);

- c. Granting (in part) Douglas Dynamics LLC's ("Douglas") Motion to Amend the Judgment (Dkt. 749), insofar as relief was granted to Douglas thereunder.
4. The Court's Opinion and Order of November 5, 2013 (Dkt. 589):
 - a. denying Buyers' Motion to permit it to argue that U.S. Patent No. RE35,700 is invalid based upon newly identified prior art (Dkt. 580);
 - b. denying Buyers' Motion to limit the scope of claims considered on remand to Claim 45 (Dkt. 580).
5. The Court's Opinion and Order of February 13, 2014 (Dkt. 609):
 - a. refusing to reconsider its prior Order and refusing to permit supplemental briefing by Buyers regarding invalidity of U.S. Patent No. RE35,700 based upon newly identified prior art (Dkt. 595);
 - b. refusing to permit supplemental briefing by Buyers regarding noninfringement of the asserted claims of U.S. Patent No. RE35,700 and the issue of willfulness (Dkt. 594).
6. The Court's Opinion and Order of March 13, 2014 (Dkt. 611):
 - a. Denying Buyers' motion for judgment that the asserted claims of U.S. Patent No. RE35,700 are invalid (Dkt. 166), and granting Douglas' motion for summary judgment that the asserted claims of U.S. Patent No. RE35,700 are valid (Dkt. 120);
 - b. Denying Buyers' motion and supplemental motion for summary judgment of non-infringement of the asserted claims of U.S. Patent No. RE35,700 (Dkt. 170), and granting Douglas' motion and supplemental motion for

summary judgment of infringement of the asserted claims of U.S. Patent No. RE35,700 (Dkt. 158);

7. All prior non-final rulings and orders adverse to defendant, including (but not limited to):
- a. the Court's denial (Dkt. 701) of Buyers' Motion to Exclude (Dkt. 612) and objection at trial to the testimony of Richard Bero;
 - b. the Court's denial (Dkt. 701) of Buyers' Motion to Exclude (Dkt. 618) and objection at trial to introduction of evidence regarding the separate value of the '700 Patent, non-infringing alternatives, market demand, indirect infringement, and non-U.S. sales;
 - c. the Court's denial (Dkt. 701) of Buyers' Motion to Exclude (Dkt. 622) and objection at trial to testimony regarding "direct infringement" damages;
 - d. the Court's denial (Dkt. 701) of Buyers' Motion to permit introduction of and proffer at trial of testimony about the "Curtis settlement" at trial (Dkt. 625), and grant of Douglas' motion to exclude that testimony (Dkt. 649);
 - e. the Court's grant (Dkt. 701) of Douglas' Motion to Exclude testimony of Andrew Finger (Dkt. 645 and 647);
 - f. the Court's failure to charge the jury as requested by Buyers (e.g. Dkt. 707), including (but not limited to) the Court's refusal to charge the jury that "Douglas must give evidence tending to separate or apportion Douglas' damages between the patented feature and any unpatented features that drive demand for the product."

All applicable fees associated with the Notice of Appeal are submitted herewith. Plaintiff understands that by filing electronically it is in compliance with the language of Rule 3(a) of the Federal Rules of Appellate Procedure requiring “enough copies of the notice to enable the clerk to comply with Rule 3(d),” because the information on appeal will be submitted to the Circuit Court via electronic submission.

Dated: January 13, 2015

Respectfully submitted,

/s/ Thomas H. Shunk

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