

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

FELLOWES, INC.,	)	
	)	
Plaintiff-Counterclaim	)	
Defendant,	)	CASE NO. 1:11-cv-08148
v.	)	
	)	CASE NO. 1:10-cv-07587
ACCO BRANDS CORPORATION,	)	(RELATED)
	)	
Defendant-Counterclaim	)	JUDGE HARRY D. LEINENWEBER
Plaintiff.	)	
	)	
	)	

**[PROPOSED] FIRST AMENDED COMPLAINT**

Plaintiff, FELLOWES, INC. (“FELLOWES”) alleges as follows:

**PARTIES**

1. FELLOWES was founded in Chicago, Illinois in 1917 with the now famous Bankers Box® records storage boxes. As the workspace evolved so did FELLOWES, expanding into new categories and introducing innovative products, including the first personal shredder.
2. From its founding in Chicago, FELLOWES has expanded over the years into the United Kingdom, Canada, Australia, France, Germany, Italy, The Netherlands, Poland, Spain, Singapore, Japan, Korea, China and Russia.
3. FELLOWES is the global leader in paper shredder design and engineering, providing high quality personal and general office business shredders on the market.
4. As a result of FELLOWES’ continuous product development efforts, it has invented a number of shredder improvements, including those in U.S. Patent Nos. 8,020,796, 8,464,767, 7,631,823, 6,978,954, 7,226,009, 7,025,293, and 7,963,468, which relate to

FELLOWES' 100% Jam-Proof® technology, shredder bin level sensing, or shredder ergonomics.

5. In 2005, FELLOWES introduced SafeSense® technology for shredders.

6. In 2008, FELLOWES introduced the 100% Jam-Proof® technology for shredders.

7. Defendant ACCO BRANDS CORPORATION ("ACCO") is a corporation existing under the laws of Delaware with a principal place of business at 300 Tower Parkway, Lincolnshire, Illinois, 60069.

8. ACCO's principal place of business is in the Northern District of Illinois.

9. ACCO, among other things, designs, manufactures, and sells shredders for use in the disposal of paper, other paper products, compact discs, and like materials.

10. ACCO markets and sells the shredders to one or more retail customers that sells them in the United States and elsewhere.

#### **JURISDICTION AND VENUE**

11. This is an action for patent infringement arising under the United States patent laws, 35 U.S.C. §§ 1 *et seq.*

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

13. This Court has personal jurisdiction over Defendants pursuant to at least 735 ILCS § 5/2-209 *et seq.* and the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

14. Venue properly lies in this district pursuant to at least 28 U.S.C. §§ 1391 and 1400(b).

**PATENTS-IN-SUIT**

15. United States Patent No. 8,020,796 (“ ‘796 patent”) is entitled “SHREDDER THICKNESS WITH ANTI-JITTER FEATURE.”

16. The ‘796 patent issued on September 20, 2011.

17. A copy of the ‘796 patent is attached as **Exhibit A**.

18. The first page of the ‘796 patent indicates that the assignee of the ‘796 patent is FELLOWES.

19. The ‘796 patent is assigned to FELLOWES.

20. FELLOWES is the owner of the ‘796 patent.

21. United States Patent No. 8,464,767 (“ ‘767 patent”) is entitled “SHREDDER THICKNESS WITH ANTI-JITTER FEATURE.”

22. The ‘767 patent issued on June 18, 2013.

23. A copy of the ‘767 patent is attached as **Exhibit B**.

24. The first page of the ‘767 patent indicates that the assignee of the ‘767 patent is FELLOWES.

25. The ‘767 patent is assigned to FELLOWES.

26. FELLOWES is the owner of the ‘767 patent.

**FACTS**

27. On information and belief, ACCO manufactures, imports into the United States, solicits sales, or sells shredders in the United States, including within the Northern District of Illinois.

28. On information and belief, ACCO imports into the United States, solicits sales, and sells shredders, including within the Northern District of Illinois.

29. On information and belief, ACCO distributes shredders throughout the United States, including within the Northern District of Illinois.

30. On information and belief, shredders from ACCO are currently being sold or offered for sale in the Northern District of Illinois.

31. On information and belief, ACCO is selling and/or importing shredders labeled Swingline EX10-06 10 Sheet Cross-Cut shredder (“EX10-06”) in the United States.

32. On information and belief, ACCO is selling and/or importing shredders labeled Swingline DX18-13 18 Sheet Cross Cut Jam Free Shredder (“DX18-13”) in the United States.

33. The ACCO EX10-06 contains a feature to prevent paper jamming while shredding.

34. The ACCO DX18-13 contains a feature to prevent paper jamming while shredding.

35. The ACCO EX10-06 contains a feature (“Jam Free feature”) to prevent paper jamming while shredding and ACCO markets that feature as “Non-stop Jam Free.”

36. The ACCO DX18-13 contains a feature (“Jam Free feature”) to prevent paper jamming while shredding and ACCO markets that feature as “Non-stop Jam Free.”

37. On information and belief, the ACCO EX10-06 Jam Free feature includes a sensor.

38. On information and belief, the ACCO DX18-13 Jam Free feature includes a sensor.

39. On information and belief, the ACCO EX10-06 Jam Free feature includes a sensor in the paper feed area.

40. On information and belief, the ACCO DX18-13 Jam Free feature includes a

sensor in the paper feed area.

41. On information and belief, the ACCO EX10-06 Jam Free feature includes a sensor in the paper feed area that measures the thickness of the batch of paper about to be shredded.

42. On information and belief, the ACCO DX18-13 Jam Free feature includes a sensor in the paper feed area that measures the thickness of the batch of paper about to be shredded.

43. On information and belief, the ACCO EX10-06 Jam Free feature provides a signal to not start the motor when the batch of paper to be shredded exceeds a predetermined maximum capacity threshold.

44. On information and belief, the ACCO DX18-13 Jam Free feature provides a signal to not start the motor when the batch of paper to be shredded exceeds a predetermined maximum capacity threshold.

45. On information and belief, the ACCO EX10-06 Jam Free feature uses red and green lights to indicate when the shredder reaches feed capacity in order to prevent jams before they occur.

46. On information and belief, the ACCO EX10-06 provides a signal to illuminate a red light when the predetermined maximum capacity threshold is exceeded, before the motor is started.

47. On information and belief, the ACCO EX10-06 Jam Free feature does not prevent shredding once the motor is started even if the number of sheets to be shredded exceeds the predetermined maximum capacity threshold.

48. On information and belief, the ACCO DX18-13 Jam Free feature monitors the

output of the thickness detector during the operation of the motor.

49. On information and belief, the ACCO DX18-13 Jam Free feature monitors the output of the thickness detector during the operation of the motor to determine if the output of the thickness detector meets a criterion corresponding to the insertion of one or more additional articles.

50. On information and belief, the ACCO DX18-13 Jam Free feature performs a predetermined operation in response to determining that a criterion has been met.

51. ACCO warns that when using the EX10-06 shredder “by attempting to force paper down the front or back of the batch of paper that is being pulled into the machine, you can jam the shredder.”

52. On information and belief, a substantial part of the events and damages giving rise to this action occurred in the Northern District of Illinois.

53. On information and belief, Defendants have established contacts with the forum and purposefully availed themselves of this jurisdiction by committing and continuing to commit acts of patent infringement in the Northern District of Illinois, and elsewhere in the United States.

**COUNT I – PATENT INFRINGEMENT OF U.S. PATENT NO. 8,020,796**

54. FELLOWES incorporates paragraphs 1 through 53 above by this reference, as though fully set forth herein.

55. On information and belief, ACCO has directly infringed the ‘796 patent by making, using, importing, offering for sale, and/or selling in the United States, including to customers in the Northern District of Illinois, shredders covered by one or more claims of the ‘796 patent.

56. On information and belief, ACCO has directly infringed the '796 patent by making, using, importing, offering for sale, and/or selling in the United States at least the ACCO EX10-06 model.

57. On information and belief, ACCO's infringement of the '796 patent has been and continues to be deliberate, and such infringement will continue unless ACCO is enjoined by this Court.

58. ACCO is a competitor of FELLOWES in the shredder market.

59. As a consequence of ACCO's infringement complained of herein, FELLOWES has been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

**COUNT II – PATENT INFRINGEMENT OF U.S. PATENT NO. 8,464,767 AGAINST ACCO**

60. FELLOWES incorporates paragraphs 1 through 59 above by this reference, as though fully set forth herein.

61. On information and belief, ACCO has directly infringed the '767 patent by making, using, importing, offering for sale, and/or selling in the United States, including to customers in the Northern District of Illinois, shredders covered by one or more claims of the '767 patent.

62. On information and belief, ACCO has directly infringed the '767 patent by making, using, importing, offering for sale, and/or selling in the United States at least the ACCO DX18-13 model.

63. On information and belief, ACCO's infringement of the '767 patent has been and continues to be deliberate, and such infringement will continue unless ACCO is enjoined by this Court.

64. ACCO is a competitor of FELLOWES in the shredder market

65. As a consequence of ACCO's infringement complained of herein, FELLOWES has been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

**PRAYER FOR JUDGMENT AND RELIEF**

WHEREFORE, FELLOWES respectfully requests judgment and relief as follows:

(a) Pursuant to 35 U.S.C. § 271, a determination that Defendants directly infringe claims of the patents-in-suit;

(b) Pursuant to 35 U.S.C. § 283, an order that Defendants and those in privity with them be preliminarily and permanently enjoined from infringing the patents-in-suit through the manufacture, use, import, offer for sale, and/or sale of infringing shredders;

(c) Pursuant to 35 U.S.C. § 284, an award of damages adequate to compensate FELLOWES for infringement of the patents-in-suit, together with prejudgment interest, costs and disbursements as fixed by the Court;

(d) An award of pre- and post-judgment interest as permitted; and

(e) Such other and further relief as the Court deems equitable and just.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all issues.



Dated: September 16, 2013

FELLOWES, INC.

/s/ William P. Atkins

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 16, 2013, a true and correct copy of [PROPOSED] AMENDED COMPLAINT was served upon counsel of record in accordance with the Federal Rules of Civil Procedure via the Court's CM/ECF electronic filing system.

*/s/ William P. Atkins*

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William P. Atkins