

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

GLOBAL SYNTHETICS	*	CIVIL ACTION NO.
ENVIRONMENTAL, L.L.C.,	*	
d/b/a GEO-SURFACES,	*	JUDGE
	*	
Plaintiff,	*	MAG. JUDGE
	*	
VERSUS	*	JURY TRIAL DEMANDED
	*	
AMERICAN WICK DRAIN	*	
CORPORATION,	*	
	*	
Defendant.	*	
	*	

\* \* \* \* \*

**COMPLAINT FOR PATENT INFRINGEMENT  
AND UNFAIR COMPETITION**

Plaintiff GLOBAL SYNTHETICS ENVIRONMENTAL, L.L.C. d/b/a GEO-SURFACES (“Plaintiff” or “GSE”), through its undersigned counsel, files this original Complaint against Defendant as follows:

**PARTIES**

1. Plaintiff is a limited liability company organized and existing under the laws of the State of Louisiana, and having a principle place of business in Baton Rouge, Louisiana. For approximately the last 8 years, and continuing through today, Plaintiff has maintained a storage location in Kaplan (Vermilion Parish), Louisiana, in this judicial district.

2. On information and belief, Defendant AMERICAN WICK DRAIN CORPORATION (“Defendant” or “AWD”), is a North Carolina corporation with a principal place of business in Monroe, North Carolina. Defendant may be served with process in this action by and through its registered agent, R. Scott Morris, 1209 Airport Road, Monroe, NC 28110.

### JURISDICTION AND VENUE

3. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including, without limitation, 35 U.S.C. §§ 271, 281, 284, and 285, and under the Lanham Act, 15 U.S.C. § 1 *et seq.*, including without limitation 15 U.S.C. § 1125. This Court has subject matter jurisdiction over the patent and unfair competition claims asserted in this case pursuant to 28 U.S.C. §§ 1331 and 1338.

4. This Court has personal jurisdiction over Defendant pursuant to La. Rev. Stat. § 13:3201 and federal law on the grounds that, upon information and belief, (i) Defendant transacts business within the State of Louisiana; (ii) Defendant has contracted to supply services or things in this state, including without limitation the sale and installation of products that infringe Plaintiff's patent; (iii) Defendant has committed acts of patent infringement, and/or unfair competition within or directed toward residents of the State of Louisiana; (iv) Defendant's wrongful acts have caused injury within the State of Louisiana, and Defendant regularly does or solicits business, engages in other persistent courses of conduct, and/or derives substantial revenue from goods sold, used or consumed or services rendered in this state; (v) Defendant purposefully directs activities toward residents of the State of Louisiana; (v) the causes of action set forth herein arise from or relate to Defendant's activities in or directed toward the State of Louisiana; and/or (vi) the exercise of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice.

5. More specifically, upon information and belief, Defendant, directly and/or through intermediaries, has shipped, distributed, offered for sale, sold, and/or advertised its infringing products in the United States, the State of Louisiana, and the Western District of Louisiana, either directly or indirectly, and/or has committed the tortious acts described herein

purposefully directed toward Plaintiff, which acts have caused injury within the State of Louisiana.

6. Venue is proper in the Western District of Louisiana pursuant to 28 U.S.C. §§ 1391 and 1400(b).

### **FACTUAL BACKGROUND**

7. Plaintiff is a professional engineering firm engaged in the design and construction of sports facilities, especially those using artificial turf. Plaintiff specializes in the research and development of artificial turf and its patented vertical-to-horizontal drainage technologies.

8. Plaintiff is the owner by assignment of all right, title and interest in and to United States Patent No. 7,128,497, entitled, “Horizontally Draining Artificial Turf System,” issued on October 31, 2006 (“the ’497 patent”), including the right to sue for past infringement. A copy of the ’497 patent is attached hereto as Exhibit 1.

9. Defendant competes with Plaintiff in the installation of artificial turf athletic facilities. On information and belief, Defendant manufactures, sells, distributes and installs products that infringe upon the ’497 patent, and that compete with Plaintiff’s products and services.

10. On information and belief, Defendant has known about the ’497 patent since before it issued, having discussed license arrangements with Plaintiff’s predecessors in interest as early as 2004, during the period of time the application and/or priority applications from which the ’497 Patent matured were pending in the United States Patent and Trademark Office. However, no such license agreement was ever entered into.

11. Defendant’s manufacturing and selling of products that, on information and belief, infringe upon the ’497 patent are not licensed or otherwise authorized by Plaintiff.

### COUNT I – PATENT INFRINGEMENT

12. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-11, above, as if set forth verbatim herein.

13. On information and belief, Defendant has directly infringed the '497 patent in violation of 35 U.S.C. § 271(a) by making, importing, using, selling, and/or offering for sale in the United States products that embody the patented invention. Defendant's infringing products include, without limitation, its "EXELDRAIN™" and similar products, which, on information and belief, infringe at least claims 10 and 15 of the '497 patent.

14. Plaintiff and its predecessors in interest owned the '497 patent throughout the period of Defendant's infringing acts. Plaintiff still owns the '497 patent, and is the owner by assignment of all rights in and to the '497 patent, including the right to sue for past damages.

15. Defendant will continue infringing the '497 patent unless enjoined by this court.

16. Plaintiff has complied with the marking requirements of the patent laws of the United States by marking embodying products with the number of the '497 patent.

17. Defendant has had actual knowledge of the '497 patent since at least as early as the filing of this action, and, upon information and belief, Defendant has known about the '497 patent since before it issued on October 31, 2006, having discussed license arrangements with Plaintiff's predecessors in interest as early as 2004, during the period of time the application and/or priority applications from which the '497 Patent matured were pending in the United States Patent and Trademark Office.

18. Defendant's infringing activities are and have been without authority or license from the patent owner.

19. Defendant's infringing activities have caused Plaintiff to suffer damages in an amount yet to be determined.

20. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's infringing acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with increased damages, interest and costs as fixed by this Court under 35 U.S.C. § 284.

**COUNT II – UNFAIR COMPETITION UNDER LANHAM ACT  
SECTION 43(a) – (15 U.S.C. § 1125(a))**

21. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-20, above, as if set forth verbatim herein.

22. On information and belief, Defendant has, without authority or permission from Plaintiff, copied from Plaintiff's website letters from Plaintiff's clients, altered them to include references to Defendant's product (which references were not included in the client's original letters), and published or distributed the altered letters to promote Defendant's products.

23. Defendant's conduct constitutes false and misleading descriptions or representations of fact that are likely to cause confusion or mistake, or to deceive as to the affiliation, connection, association, sponsorship or approval of Defendant's products by Plaintiff's clients, which clients did not, in fact, make the statements attributed to them by the letters Defendant copied from Plaintiff's website and altered to insert Defendant's own name, all without authority from Plaintiff or Plaintiff's clients.

24. Defendant's acts of unfair competition have caused both financial and irreparable injury and damage to Plaintiff, and unless enjoined by this Court, will continue to cause irreparable injury and damage to Plaintiff's business reputation and goodwill, including diversion of customers, loss of market share, lost sales and lost profits. Plaintiff has no adequate remedy at law.

**JURY DEMAND**

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

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief as follows:

A. Entry of an order and judgment requiring that Defendant and its agents, servants, employees, owners and representatives, and all other persons, firms or corporations in active concert or participation with it, be enjoined and restrained from (a) any further infringement of the '497 patent; (b) using in any manner any altered and/or unauthorized testimonial letter from Plaintiff's clients, or any other marketing collateral likely to cause confusion about the entity installing a product or the manufacturer of such product; (c) doing any act or thing that is calculated or likely to cause confusion or mistake in the minds of members of the public or prospective customers of Plaintiff's or Defendant's products or services as to the source of the products or services offered for sale, distributed, or sold, or that is likely to deceive members of the public, or prospective customers, into believing that there is some connection, affiliation, or sponsorship between Plaintiff and Defendant;

B. A judgment ordering Defendant, pursuant to 15 U.S.C. § 1116(a), to file with this Court and serve upon Plaintiff within thirty (30) days after entry of the injunction, a report in writing under oath setting forth in detail the manner and form in which Defendants have complied with the injunction and ceased all offering of goods and services using the unauthorized and altered testimonial letters or other, similar materials;

C. An accounting and award of damages for Defendants infringement of the '497 patent, which by law cannot be less than a reasonable royalty, together with increased damages, pre- and post-judgment interest, costs and attorney's fees;

D. A judgment in the amount of Plaintiff's actual infringement damages arising from Defendant's acts of unfair competition, Defendant's profits, Plaintiff's reasonable attorneys' fees and costs of suit, pre- and post-judgment interest;

E. A judgment granting Plaintiff such other and further relief as the Court deems just and proper.

Respectfully submitted:

Dated: January 2, 2013

/s/ Robert L. Waddell

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