

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

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**DONALDSON COMPANY, INC.,**

Plaintiff,

**Case No. 1:15-cv-887**

v.

**ACTION FILTRATION, INC.**

Defendant.

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff Donaldson Company, Inc. (“Donaldson”), for its Complaint against defendant Action Filtration, Inc. (“Action Filtration”), states and alleges as follows:

**PARTIES**

1. Plaintiff Donaldson is a Delaware corporation with its principal place of business at 1400 West 94th Street, Bloomington, Minnesota 55431.
2. Defendant Action Filtration is an Indiana corporation with its principal place of business at 221 Raymond Street, Hope, Indiana 47246.

**JURISDICTION AND VENUE**

3. This Court has jurisdiction over the subject matter of this Complaint pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the claims alleged herein arise under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*
4. This Court has personal jurisdiction over Action Filtration because its principal place of business is in the Southern District of Indiana, and because Action Filtration transacts business and has continuous and systematic contacts in this district, maintains an

ongoing presence within this district, has purposefully availed itself of the privileges and benefits of the laws of the state of Indiana, and has engaged in acts causing injury to Donaldson in this district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c) and § 1400(b).

### **PATENTS-IN-SUIT**

6. On December 3, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,488,746 (“the ’746 patent”), entitled “Air Filter Assembly Having Non-Cylindrical Filter Elements, For Filtering Air With Particulate Matter,” naming as inventors Kristofer G. Kosmider, Steven A. Johnson and Thomas D. Raether. A copy of the ’746 patent is attached hereto as Exhibit A.

7. Kristofer G. Kosmider, Steven A. Johnson, and Thomas D. Raether assigned the entire right, title, and interest in and to the ’746 patent to Donaldson. The entire right, title, and interest in the ’746 patent is owned by Donaldson.

8. On November 30, 2004, the United States Patent and Trademark Office duly and legally issued United States Design Patent No. D499,177 (“the ’177 patent”), entitled “Filter Element Having Oval Shape,” naming as inventors Kristofer G. Kosmider, Steven A. Johnson and Thomas D. Raether. A copy of the ’177 patent is attached hereto as Exhibit B.

9. Kristofer G. Kosmider, Steven A. Johnson, and Thomas D. Raether assigned the entire right, title, and interest in and to the ’177 patent to Donaldson. The entire right, title, and interest in the ’177 patent is owned by Donaldson.

10. On September 4, 2007, the United States Patent and Trademark Office duly and legally issued United States Patent No. 7,264,656 (“the ’656 patent”), entitled “Air Filter Assembly Having Non-Cylindrical Filter Elements, For Filtering Air With Particulate

Matter,” naming as inventors Kristofer G. Kosmider, Steven A. Johnson and Thomas D. Raether. A copy of the '656 patent is attached hereto as Exhibit C.

11. Kristofer G. Kosmider, Steven A. Johnson, and Thomas D. Raether assigned the entire right, title, and interest in and to the '656 patent to Donaldson. The entire right, title, and interest in the '656 patent is owned by Donaldson.

**COUNT I: INFRINGEMENT OF THE '746 PATENT**

12. Donaldson incorporates the allegations contained in paragraphs 1 through 11 above as though fully set forth herein.

13. Action Filtration has infringed and is continuing to infringe one or more claims of the '746 patent by making, using, offering to sell, and/or selling replacement non-cylindrical filter elements (*e.g.*, Action Filtration's oval filter DF007000-BH) for dust collection systems, including Donaldson Torit Downflo® Oval Dust Collectors, in this district and elsewhere in the United States in violation of 35 U.S.C. § 271.

14. On information and belief, Action Filtration will continue to infringe the '746 patent unless and until Action Filtration is enjoined by this Court.

15. Donaldson has suffered irreparable harm by Action Filtration's infringement of the '746 patent and will continue to suffer irreparable harm in the future unless and until Action Filtration is enjoined from infringing the '746 patent.

16. Action Filtration's acts of infringement have caused and continue to cause monetary damage to Donaldson, and Donaldson is entitled to recover from Action Filtration the monetary damages sustained by Donaldson and any additional remedy in an amount to be determined at trial.

**COUNT II: INFRINGEMENT OF THE '177 PATENT**

17. Donaldson incorporates the allegations contained in paragraphs 1 through 11 above as though fully set forth herein.

18. Action Filtration has infringed and is continuing to infringe one or more claims of the '177 patent by making, using, offering to sell, and/or selling replacement non-cylindrical filter elements (*e.g.*, Action Filtration's oval filter DF007000-BH) for dust collection systems, including Donaldson Torit Downflo® Oval Dust Collectors, that embody the design of the '177 patent, in this district and elsewhere in the United States in violation of 35 U.S.C. § 271.

19. Action Filtration's replacement non-cylindrical filter elements embody the design of the '177 patent such that an ordinary observer would be deceived into believing that Action Filtration's replacement non-cylindrical filter elements are the same as the design of the '177 patent.

20. Action Filtration's acts of infringement have caused and continue to cause monetary damage to Donaldson, and Donaldson is entitled to recover from Action Filtration the monetary damages sustained by Donaldson and any additional remedy in an amount to be determined at trial.

**COUNT III: INFRINGEMENT OF THE '656 PATENT**

21. Donaldson incorporates the allegations contained in paragraphs 1 through 11 above as though fully set forth herein.

22. Action Filtration has infringed and is continuing to infringe one or more claims of the '656 patent by making, using, offering to sell, and/or selling replacement non-cylindrical filter elements (*e.g.*, Action Filtration's oval filter DF007000-BH) for dust collection systems, including Donaldson Torit Downflo® Oval Dust Collectors, in this district and elsewhere in the United States in violation of 35 U.S.C. § 271.

23. Donaldson has suffered irreparable harm by Action Filtration's infringement of the '656 patent and will continue to suffer irreparable harm in the future unless and until Action Filtration is enjoined from infringing the '656 patent.

24. Action Filtration's acts of infringement have caused and continue to cause monetary damage to Donaldson, and Donaldson is entitled to recover from Action Filtration the monetary damages sustained by Donaldson and any additional remedy in an amount to be determined at trial.

### **DEMAND FOR A JURY TRIAL**

25. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Donaldson respectfully requests a trial by jury on any and all issues on which a trial by jury is available under applicable law.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Donaldson respectfully requests this Court enter judgment in its favor and against Action Filtration, as follows:

A. To enter judgment that Action Filtration has infringed the '746, '177, and '656 patents in violation of 35 U.S.C. § 271;

B. To enter orders preliminarily and permanently enjoining Action Filtration, and its respective officers, agents, servants, and employees, and all persons in active concert or participation with any of the foregoing, who receive actual notice by personal service or otherwise of the orders, from infringing the '746, '177, and '656 patents in violation of 35 U.S.C. § 271;

C. To award Donaldson an accounting for damages and its damages in amounts sufficient to compensate it for Action Filtration's infringement of the '746, '177, and

'656 patents, together with pre-judgment and post-judgment interest and costs, pursuant to 35 U.S.C. § 284;

D. To award Donaldson an additional remedy to the extent of Action Filtration's total profit derived from the sale of replacement non-cylindrical filter elements for dust collection systems, including Donaldson Torit Downflo® Oval Dust Collectors, that embody the design of the '177 patent, pursuant to 35 U.S.C. § 289;

E. To declare this case to be "exceptional" under 35 U.S.C. § 285 and to award Donaldson its attorneys' fees, expenses, and costs incurred in this action; and

F. To award Donaldson such other and further relief as this Court deems just and proper.

Date: June 5, 2015

Respectfully submitted,

By: /s/ R. Trevor Carter

R. Trevor Carter, #18562-49

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