

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**MOEN INCORPORATED**

25300 Al Moen Drive  
North Olmsted, Ohio 44070,

Plaintiff,

v.

**SPECTRUM BRANDS, INC.**

3001 Deming Way  
Middleton, Wisconsin 53562,

**SPECTRUM BRANDS HOLDINGS, INC.**

3001 Deming Way  
Middleton, Wisconsin 53562,

**PRICE PFISTER, INC.**

19701 DaVinci  
Lake Forest, CA 92610,

Defendants.

) CASE NO.

) JUDGE

) **COMPLAINT FOR  
PATENT INFRINGEMENT**

) **DEMAND FOR JURY TRIAL**

Plaintiff Moen Incorporated (“Moen”) files this Complaint for patent infringement against Defendants Spectrum Brands, Inc., Spectrum Brands Holdings, Inc. and Price Pfister, Inc. (collectively referred to herein as “Pfister”) as follows:

1. This is an action for damages and injunctive relief to remedy patent infringement by Pfister of U.S. Patent No. 9,194,110 (the “110 Patent”, attached as **Exhibit A**), which is a utility patent assigned to and owned by Moen.

### **THE PARTIES**

2. Moen is a corporation existing under the laws of the State of Delaware with a principal place of business at 25300 Al Moen Drive, North Olmsted, Ohio 44070. Moen makes and sells a diverse line of residential and commercial plumbing products, including faucets.

3. Defendant Spectrum Brands, Inc. is, upon information and belief, a corporation existing under the laws of the state of Delaware with a principal place of business at 3001 Deming Way, Middleton, Wisconsin 53562. Upon information and belief, Spectrum Brands, Inc. has a division called Hardware & Home Improvement that operates a business called Pfister Faucets. Upon information and belief, the location of the Hardware & Home Improvement division and Pfister Faucets business of Spectrum Brands, Inc. is 19701 DaVinci, Lake Forest, CA 92610.

4. Defendant Spectrum Brands Holdings, Inc. is, upon information and belief, a corporation existing under the laws of the state of Delaware with a principal place of business at 3001 Deming Way, Middleton, Wisconsin 53562. Upon information and belief, Spectrum Brands, Inc. is a wholly owned subsidiary of Spectrum Brands Holdings, Inc.

5. Defendant Price Pfister, Inc. is, upon information and belief, a corporation existing under the laws of the State of Delaware with a principal place of business at 19701 DaVinci, Lake Forest, CA 92610-2622. Upon information and belief, Price Pfister, Inc. was merged into Spectrum Brands, Inc. in December of 2014. However, upon information and belief, Price Pfister, Inc. is still listed in the U.S. Patent & Trademark Office as the owner of several trademarks related to the Pfister Faucets business of Spectrum Brands, Inc., including Pfister® and Selia®. Upon information and belief, the Pfister touch free faucets accused of infringing the '110 Patent are sold under and using these two trademarks. Upon information and belief, Pfister collectively makes, ships, distributes, offers for sale, sells, and advertises plumbing fixtures,

including faucets. Pfister regularly does business in Ohio, including selling and shipping its products in this judicial district including the infringing Pfister touch-free faucets identified in paragraph 13 below.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this controversy concerning patent infringement by virtue of Title 35 U.S.C. §§ 271 and 281 and Title 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Pfister based on the following: Upon information and belief, Pfister maintains an established distribution network for offering for sale, selling and/or shipping into Ohio, and this district within Ohio, the infringing products as well as a substantial amount of other products sold by Pfister. Upon information and belief, Pfister sells its infringing Pfister touch-free faucets through its established distribution network in Ohio with knowledge and awareness that these products would be sold in Ohio. Upon information and belief, the infringing Pfister touch-free faucets are shipped to and sold at Lowe's stores in Ohio by Pfister. Upon information and belief, Pfister's infringement of the '110 Patent in Ohio has tortiously injured the Plaintiff, Moen, in this district. Further, Pfister (a) upon information and belief, is selling and/or has offered for sale products to be sold in this judicial district which infringe the claims of the '110 Patent; (b) upon information and belief, regularly solicits business in this judicial district and sells a substantial amount of products in this judicial district; (c) upon information and belief, is engaged in substantial and non-isolated activities within this judicial district, whether such activities are wholly within Ohio or otherwise; and (d) upon information and belief, derives substantial revenue from goods used or consumed in Ohio. Upon information and belief, Pfister maintained continuous and systematic contacts with Ohio through the stream

of commerce and otherwise. This court has jurisdiction over Pfister under the Ohio Long Arm Statute, O.R.C. § 2307.382.

8. Venue is proper in this judicial district pursuant to Title 28 U.S.C. §§ 1391(b)(1), (b)(2) and (c) and 28 U.S.C. § 1400(b).

### **BACKGROUND**

9. Moen has been an innovator in the design, application and performance of faucets and other plumbing products for over 50 years. Moen is well known around the world for the innovation and quality of its faucets and plumbing products, and Moen manufactures and markets its products throughout the United States.

10. Moen invests a great deal of monetary resources in designing and developing new products and innovations. Moen seeks intellectual property protection for many of its faucet and plumbing product innovations.

11. Moen developed a line of faucets called Motionsense® that incorporate an electronic plumbing fixture technology. Motionsense® faucets are a high-quality line of products targeted to both consumers and professionals, and are manufactured and sold with high-quality materials, innovative manufacturing processes and innovative mechanical and design features. Some of these innovations in the Motionsense® line of products are protected by the '110 Patent. The Motionsense® product line is important to Moen and has been commercially successful.

12. Upon information and belief, Pfister is marketing and offering for sale the Pfister touch-free faucets (defined hereinafter in paragraph 15) as competing products to Moen's Motionsense® brand of faucets. In Pfister's efforts to compete with Moen's successful Motionsense® brand of faucets, upon information and belief, Pfister copied and/or derived various Moen product features from Moen's products that are covered by the '110 Patent. This

misappropriation and unauthorized use of Moen's intellectual property gives rise to the patent infringement allegations (Count I) below.

### **CAUSES OF ACTION**

#### **COUNT I- DIRECT INFRINGEMENT OF THE '110 PATENT**

13. Plaintiff realleges and incorporates by reference paragraphs 1 through 12 above as if fully rewritten herein.

14. On November 24, 2015, the '110 Patent, including claims to an electronic plumbing fixture fitting, was duly and legally issued naming Timothy A. Frick, Harshil Parikh, Inho Song, and W. Randall Tucker as inventors. Moen is the owner by assignment of the entire interest in the '110 Patent, including all rights to make, use and sell under the '110 Patent. A true and correct copy of the '110 Patent is attached hereto as **Exhibit A**.

15. Pfister manufactures, imports, uses, sells, and offers for sale a line of faucets under the React™ line, including the Selia® Touch-Free Pull-Down Kitchen Faucet With React™ (Model #: F-529-ESLS), the Pasadena Touch-Free Pull-Down Kitchen Faucet With React™ (Model #: F-529-EPDS), and the Lita Touch-Free Pull-Down Kitchen Faucet With React™ (Model #: GT529-ELC and GT529-ELS) ("the Pfister touch-free faucets"). The Pfister touch-free faucets each literally infringe at least claims 1 through 5; 9 through 15; and 19 through 23 of the '110 Patent. The Pfister touch-free faucets each embody every element of at least claims 1 through 5; 9 through 15; and 19 through 23 of the '110 Patent. To the extent that the Pfister touch-free faucets do not literally infringe these claims, the Pfister touch-free faucets infringe claims 1 through 5; 9 through 15; and 19 through 23 of the '110 Patent under the doctrine of equivalents.

16. Defendant Pfister has been infringing and continues to infringe at least claims 1 through 5; 9 through 15; and 19 through 23 of the Moen '110 Patent by manufacturing, importing, using,

selling, and/or offering for sale the Pfister touch-free faucets in the United States in violation of the United States patent laws.

17. Upon information and belief, Pfister's acts of infringement have been without license and with full knowledge and awareness of Moen's patent rights.

18. The harm to Moen within this judicial district and elsewhere in the United States resulting from Pfister's infringement of the Moen '110 Patent set forth above is irreparable, continuing, and not fully compensable by money damages.

19. Upon information and belief, Pfister has profited and will continue to profit by its infringing activities. Moen has been damaged by Pfister's infringing activities. The amount of monetary damages that Moen has suffered by Pfister's infringing acts set forth above cannot be determined without an accounting.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Moen prays:

- (a) for a judgment that Moen owns the '110 Patent.
- (b) for a judgment that the '110 Patent is valid and enforceable;
- (c) for a judgment that Pfister has infringed the '110 Patent.
- (d) for a preliminary and permanent injunction against further infringement of the '110 Patent by Defendant Pfister, its officers, directors, employees, agents, licensees, servants, affiliates, parent, subsidiaries, successors, and assigns, and any and all persons acting in privity with them;
- (e) for an accounting to establish Moen's damages and for judgment against Pfister awarding this damage amount;
- (f) for an assessment of costs against Pfister;

- (g) for a finding that this action is exceptional and for an award to Moen of its reasonable attorney fees incurred in this action under 35 U.S.C. § 285; and
- (h) for such other and further relief as may be just and appropriate.

Respectfully submitted this 19th day of January, 2016.

MOEN INCORPORATED

/s/ John S. Cipolla

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**PLAINTIFF'S DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff Moen Incorporated hereby demands a jury trial.

Dated: January 19, 2016

MOEN INCORPORATED

/s/ John S. Cipolla

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**CERTIFICATE OF SERVICE**

I CERTIFY that on this 19th day of January, 2016, I presented the foregoing to the Clerk of the court for filing and uploading to the CM/ECF system which will send an automatic electronic notification of such filing to all counsel of record.

/s/ John S. Cipolla

Signature of Attorney for Plaintiff Moen  
Incorporated