

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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WCM INDUSTRIES, INC., a Colorado corporation,	)	
	)	
Plaintiff,	)	Civil Action No.
v.	)	
	)	
FEDERAL PROCESS CORPORATION, an Ohio corporation,	)	JURY DEMAND
JB PRODUCTS, an Indiana corporation, and	)	
JOHN DOE,	)	
an individual,	)	
	)	
Defendants.	)	

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**COMPLAINT**

Plaintiff WCM Industries, Inc. ("WCM"), by and through its undersigned attorneys, for its Complaint against Federal Process Corporation ("FPC"), JB Products ("JB"), and John Doe, sometimes collectively referred to as "Defendants," states as follows:

**PARTIES**

1. WCM is a Colorado corporation with its principal place of business at 2121 Waynoka Road, Colorado Springs, Colorado 80915.
2. Upon information and belief, FPC is an Ohio corporation with its principal place of business at 4250 Richmond Road, Cleveland, OH 44128, and directs the business of Defendant JB as a division of FPC.
3. Upon information and belief, JB is an Indiana corporation with its principal place of business at 6851 Enterprise Drive, South Bend, Indiana 46628. JB is a division of FPC and is aware of WCM and competes against WCM in the United States.

4. One or more John Doe defendants, whose identities are presently unknown, have assisted, induced, contributed or cooperated with Defendants FPC and JB to commit the acts complained of herein.

**JURISDICTION AND VENUE**

5. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101, *et seq.*

6. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

**WCM'S LEGACY OF INNOVATION**

8. WCM incorporates herein by reference each and every allegation in paragraphs 1 through 7.

9. WCM has long been recognized for manufacturing the finest plumbing products in the country. The company's rich and successful history began in 1929, when Joseph C. Woodford, Sr. opened the first location in Des Moines, Iowa. For three generations, the Woodford family has built on the foundation that Joseph C. Woodford, Sr. built. Now encompassing both the Woodford and Watco brands, WCM continues to provide innovative and highly sought after fixtures, valves and fittings for use in residential and commercial buildings. Through its long history of innovation and development of best-in-class products, WCM has now become a leading supplier of plumbing fittings in the United States.

10. After nine decades of improved engineering and manufacturing, as well as significant expenses made in research and development and innovation, WCM has acquired a portfolio of patents that stands apart from any other company in the field of bath drains and

related fixtures. WCM has enjoyed a reputation of innovation among those familiar with the marketplace, due in part to the innovative nature and quality of the products WCM manufactures.

11. WCM advertises its products in part by offering images and descriptions of its products in a print catalog that is distributed to distributors, customers, and potential customers throughout the United States. WCM also offers an electronic version of its catalog via its website, [www.watcomfg.com](http://www.watcomfg.com).

12. WCM has continued to expand and maintain its patent portfolio in part due to its strong belief in and support of the U.S. patent system's ability to spur innovation and progress, and in part to prevent knock-off artists and low-quality suppliers from unfairly enjoying the fruits of WCM's creativity and labor and causing confusion among consumers. Many of these knock-off artists import their products from less expensive and less reliable manufacturers located overseas.

13. Through its divisions, WCM has applied for and been granted over 100 U.S. Patents on inventions ranging from wall hydrants to faucets to overflow valves. Over the last 20 years in particular, WCM has been granted a number of patents on its novel bath drains and related fixtures that have been commercialized and have resulted in highly successful products.

14. One of WCM's inventions is covered by U.S. Patent No. 8,302,220 ("the '220 Patent"), entitled "Method and Apparatus for Assembling and Sealing Bathtub Overflow and Waste Water Ports," names inventor William T. Ball and was duly and legally issued on November 6, 2012. A true and correct copy of the '220 Patent is attached hereto as Exhibit A.

15. The application that became the '220 Patent was filed with the United States Patent and Trademark Office ("USPTO") on December 10, 2003 and published with the USPTO as U.S. Patent Application Publication 2004/0117907 on June 24, 2004. Upon information and

belief, Defendants became aware of the '220 Patent upon its June 24, 2004 publication with the USPTO.

16. U.S. Patent No. 8,321,970 ("the '970 Patent"), entitled "Method and Associated Apparatus for Assembling and Testing a Plumbing System," naming inventor William T. Ball, was duly and legally issued on December 4, 2012. A true and correct copy of the '970 Patent is attached hereto as Exhibit B.

17. The application that became the '970 Patent was filed with the USPTO on September 15, 2011 and published with the USPTO as U.S. Patent Application Publication 2012/0005824 on January 12, 2012. Upon information and belief, Defendants became aware of the '970 Patent upon its January 12, 2012 publication.

18. U.S. Patent No. 8,584,272 ("the '272 Patent"), entitled "Method and Associated Apparatus for Assembling and Testing a Plumbing System," and naming inventor William T. Ball, is another patent owned by WCM and is closely related to the '132 Patent. The '272 Patent was duly and legally issued on November 19, 2013. A true and correct copy of the '272 Patent is attached hereto as Exhibit C.

19. The application that became the '272 Patent was filed with the USPTO on November 30, 2012 and was published by the USPTO as U.S. Patent Application Publication 2013/0191988 on August 1, 2013. Upon information and belief, Defendants became aware of the '272 Patent as early as August 1, 2013.

20. U.S. Patent No. 9,200,436 ("the '436 Patent"), entitled "Overflow Assembly for Bathtubs and the Like," naming inventor William T. Ball, was duly and legally issued on December 1, 2015. A true and correct copy of the '436 Patent is attached hereto as Exhibit D.

21. The application that became the '436 Patent was filed with the USPTO on May 15, 2013 and published with the USPTO as U.S. Patent Application Publication 2013/0283523 on October 31, 2013. Upon information and belief, Defendants became aware of the '436 Patent upon its October 31, 2013 publication.

22. By assignment, WCM owns all right, title and interest to the '220, '970, '272 and '436 Patents.

**DEFENDANTS CONSPIRE TO COPY WCM'S PRODUCTS**

23. Defendants are competitors who have copied WCM's products and imported such copies from overseas manufacturers to undercut WCM's prices and steal WCM's customers. For many years, WCM has lived with the added expense of having to compete with Defendants and their copying.

24. Upon information and belief, Defendants do not manufacture their products, but rather have imported their products from overseas, including one or more fittings that interface with "overflow assemblies." Manufacturers and plumbers use the term "overflow assemblies" to refer to the fittings and pipes used in overflow outlets commonly found in bathtubs, such as the fittings and pipes shown in Exhibits E and F. Overflow assemblies are an essential plumbing fixture in residential and many commercial buildings, as they interconnect to a waste water drain system and divert water that reaches the overflow outlet from the bathtub to the waste water drain system, thereby reducing or eliminating overflows and the damage resulting therefrom. Various aspects of WCM's novel overflow assembly are covered by multiple WCM patents.

25. Defendants have been offering to sell and selling, in the United States, one or more overflow assemblies as part of their bath waste and overflow product line. Defendants' overflow comprises an overflow fitting interconnected to pipes that connect a drain port of the

bathub with the waste water drain system, and includes all of the elements of the overflow assemblies covered by various WCM patents. True and correct copies from Defendants' website showing examples of the infringing overflow products being manufactured, offered for sale, and/or sold by Defendants are also included in Exhibits E and F.

26. Upon information and belief, Defendants are currently importing the WCM knock-off products identified in Exhibits E and F. Defendants have offered to sell and has sold its knock-off overflow products under the names "Express Waste" and "Express II" and also by private labeling these products for sale by another.

27. Upon information and belief, Defendants have offered to sell and have sold their "Express Waste" "Express II" and private labeled overflow assemblies, and individual fittings therefrom, in the State of Tennessee.

**FIRST CLAIM FOR RELIEF**  
**(Infringement of the '220 Patent)**

28. WCM incorporates herein by reference each and every allegation in paragraphs 1 through 27.

29. Defendants' activities in making, using, selling and/or offering to sell in the United States, and/or importing into the United States, the product depicted below and the products depicted in Exhibits E and F constitute direct infringement of the '220 Patent, in violation of 35 U.S.C. § 271(a).



Defendants' Product

30. Upon information and belief, Defendants are inducing direct infringement of the '220 Patent by others by actively instructing, assisting, and/or encouraging others to practice one or more of the inventions claimed in the '220 Patent, in violation of 35 U.S.C. § 271(b).

31. Upon information and belief, Defendants are contributing to direct infringement of the '220 Patent by others by directing others to manufacture one or more components which constitute a material part of the invention defined by the claims of the '220 Patent, knowing the same to be especially made or especially adapted for use in an infringement of the '220 Patent, and which components are not staple articles or commodities of commerce suitable for substantial non-infringing use, in violation of 35 U.S.C. § 271(c).

32. Upon information and belief, Defendants have acted in concert with and have induced or contributed to the infringement of the '220 Patent by instructing individual plumbers and tradesmen to commit acts that result in infringement of the '220 Patent.

33. Defendants' actions in infringing the '220 Patent have been, and are, willful, deliberate and/or in conscious disregard of WCM's rights, making this an exceptional case within

the meaning of 35 U.S.C. § 285 and entitling WCM to enhanced damages and an award of its attorneys' fees.

34. Defendants' infringement of the '220 Patent have caused damage to WCM in an amount to be ascertained at trial.

35. Defendants' infringement of the '220 Patent have caused and will continue to cause irreparable injury to WCM, to which there exists no adequate remedy at law. Defendants' infringement of the '220 Patent will continue unless enjoined by this Court.

**SECOND CLAIM FOR RELIEF**  
**(Infringement of the '970 Patent)**

36. WCM incorporates herein by reference each and every allegation in paragraphs 1 through 35.

37. Defendants' activities in making, using, selling and/or offering to sell in the United States, and/or importing into the United States, the product depicted below and the products depicted in Exhibits E and F constitute direct infringement of the '970 Patent, in violation of 35 U.S.C. § 271(a).

38. Upon information and belief, Defendants are inducing direct infringement of the '970 Patent by others by actively instructing, assisting, and/or encouraging others to practice one or more of the inventions claimed in the '970 Patent, in violation of 35 U.S.C. § 271(b).

39. Upon information and belief, Defendants are contributing to direct infringement of the '970 Patent by others by directing others to manufacture one or more components which constitute a material part of the invention defined by the claims of the '970 Patent, knowing the same to be especially made or especially adapted for use in an infringement of the '970 Patent, and which components are not staple articles or commodities of commerce suitable for substantial non-infringing use, in violation of 35 U.S.C. § 271(c).



40. Upon information and belief, Defendants have acted in concert with and have induced or contributed to the infringement of the '970 Patent by instructing individual plumbers and tradesmen to commit acts that result in infringement of the '970 Patent.

41. Defendants' actions in infringing the '970 Patent have been, and are, willful, deliberate and/or in conscious disregard of WCM's rights, making this an exceptional case within the meaning of 35 U.S.C. § 285 and entitling WCM to enhanced damages and an award of its attorneys' fees.

42. Defendants' infringement of the '970 Patent have caused damage to WCM in an amount to be ascertained at trial.

43. Defendants' infringement of the '970 Patent have caused and will continue to cause irreparable injury to WCM, to which there exists no adequate remedy at law. Defendants' infringement of the '970 Patent will continue unless enjoined by this Court.

**THIRD CLAIM FOR RELIEF**  
**(Infringement of the '272 Patent)**

44. WCM incorporates herein by reference each and every allegation in paragraphs 1 through 43.

45. Defendants' activities in making, using, selling and/or offering to sell in the United States, and/or importing into the United States, the products depicted in Exhibits E and F constitute direct infringement of the '272 Patent, in violation of 35 U.S.C. § 271(a).

46. Upon information and belief, Defendants are inducing direct infringement of the '272 Patent by others by actively instructing, assisting, and/or encouraging others to practice one or more of the inventions claimed in the '272 Patent, in violation of 35 U.S.C. § 271(b).

47. Upon information and belief, Defendants are contributing to direct infringement of the '272 Patent by others by directing others to manufacture one or more components which

constitute a material part of the invention defined by the claims of the '272 Patent, knowing the same to be especially made or especially adapted for use in an infringement of the '272 Patent, and which components are not staple articles or commodities of commerce suitable for substantial non-infringing use, in violation of 35 U.S.C. § 271(c).

48. Upon information and belief, Defendants have acted in concert with and have induced or contributed to the infringement of the '272 Patent by instructing individual plumbers and tradesmen to commit acts that result in infringement of the '272 Patent.

49. Defendants' actions in continuing to infringe the '272 Patent after notice of WCM's rights to the same have been, and are, willful, deliberate and/or in conscious disregard of WCM's rights, making this an exceptional case within the meaning of 35 U.S.C. § 285 and entitling WCM to enhanced damages and an award of its attorneys' fees.

50. Defendants' infringement of the '272 Patent have caused damage to WCM in an amount to be ascertained at trial.

51. Defendants' infringement of the '272 Patent have caused and will continue to cause irreparable injury to WCM, to which there exists no adequate remedy at law. Defendants' infringement of the '272 Patent will continue unless enjoined by this Court.

**FOURTH CLAIM FOR RELIEF**  
**(Infringement of the '436 Patent)**

52. WCM incorporates herein by reference each and every allegation in paragraphs 1 through 51.

53. Defendants' activities in making, using, selling and/or offering to sell in the United States, and/or importing into the United States, the products depicted in Exhibits E and F constitute direct infringement of the '436 Patent, in violation of 35 U.S.C. § 271(a).

54. Upon information and belief, Defendants are inducing direct infringement of the '436 Patent by others by actively instructing, assisting, and/or encouraging others to practice one or more of the inventions claimed in the '436 Patent, in violation of 35 U.S.C. § 271(b).

55. Upon information and belief, Defendants are contributing to direct infringement of the '436 Patent by others by directing others to manufacture one or more components which constitute a material part of the invention defined by the claims of the '436 Patent, knowing the same to be especially made or especially adapted for use in an infringement of the '436 Patent, and which components are not staple articles or commodities of commerce suitable for substantial non-infringing use, in violation of 35 U.S.C. § 271(c).

56. Upon information and belief, Defendants have acted in concert with and have induced or contributed to the infringement of the '436 Patent by instructing individual plumbers and tradesmen to commit acts that result in infringement of the '436 Patent.

57. Defendants' actions in continuing to infringe the '436 Patent after notice of WCM's rights to the same have been, and are, willful, deliberate and/or in conscious disregard of WCM's rights, making this an exceptional case within the meaning of 35 U.S.C. § 285 and entitling WCM to enhanced damages and an award of its attorneys' fees.

58. Defendants' infringement of the '436 Patent have caused damage to WCM in an amount to be ascertained at trial.

59. Defendants' infringement of the '436 Patent have caused and will continue to cause irreparable injury to WCM, to which there exists no adequate remedy at law. Defendants' infringement of the '436 Patent will continue unless enjoined by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, WCM requests that judgment be entered in its favor and against Defendants as follows:

A. Declaring that Defendants have infringed United States Patent No. 8,302,220, and that Defendants' infringement of the '220 Patent was and continues to be willful;

B. Issuing temporary, preliminary, and permanent injunctions enjoining Defendants, their officers, agents, subsidiaries, and employees, and those in privity with or that act in concert with any of the foregoing, from further activities that constitute infringement of United States Patent No. 8,302,220, pursuant to 35 U.S.C. § 283;

C. Awarding WCM damages arising out of Defendants' infringement of United States Patent No. 8,302,220 for each act of infringement, and trebling those damages pursuant to 35 U.S.C. § 284, together with costs and pre- and post-judgment interest;

D. Declaring that Defendants have infringed United States Patent No. 8,321,970, and that Defendants' infringement of the '970 Patent was and continues to be willful;

E. Issuing temporary, preliminary, and permanent injunctions enjoining Defendants, its officers, agents, subsidiaries, and employees, and those in privity with or that act in concert with any of the foregoing, from further activities that constitute infringement of United States Patent No. 8,321,970, pursuant to 35 U.S.C. § 283;

F. Awarding WCM damages arising out of Defendants' infringement of United States Patent No. 8,321,970 for each act of infringement, and trebling those damages pursuant to 35 U.S.C. § 284, together with costs and pre- and post-judgment interest;

G. Declaring that Defendants have infringed United States Patent No. 8,584,272, and that Defendants' infringement of the '272 Patent was and continues to be willful;

H. Issuing temporary, preliminary, and permanent injunctions enjoining Defendants, their officers, agents, subsidiaries, and employees, and those in privity with or that act in concert with any of the foregoing, from further activities that constitute infringement of United States Patent No. 8,584,272, pursuant to 35 U.S.C. § 283;

I. Awarding WCM damages arising out of Defendants' infringement of United States Patent No. 8,584,272 for each act of infringement, and trebling those damages pursuant to 35 U.S.C. § 284, together with costs and pre- and post-judgment interest;

J. Declaring that Defendants have infringed United States Patent No. 9,200,436, and that Defendants' infringement of the '436 Patent was and continues to be willful;

K. Issuing temporary, preliminary, permanent injunctions enjoining Defendants, their officers, agents, subsidiaries, and employees, and those in privity with or that act in concert with any of the foregoing, from further activities that constitute infringement of United States Patent No. 9,200,436, pursuant to 35 U.S.C. § 283;

L. Awarding WCM damages arising out of Defendants' infringement of United States Patent No. 9,200,436 for each act of infringement, and trebling those damages pursuant to 35 U.S.C. § 284, together with costs and pre- and post-judgment interest;

M. Finding that this is an "exceptional case" within the meaning of 35 U.S.C. § 285 and awarding reasonable attorneys' fees to WCM; and

N. Awarding WCM such further legal and equitable relief as the Court deems just and proper.

**JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, WCM demands a trial by jury on all issues so triable.

DATED: January 19, 2016

Respectfully submitted,

s/Glen Reid, Jr.

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*APPLICATIONS FOR ADMISSION PRO HAC  
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