

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

CASE NO.

R.D. JONES, STOP EXPERTS, INC., and
RRFB GLOBAL, INC.,

Plaintiffs,

v.

JURY TRIAL DEMANDED

TRAFFIC SAFETY CORPORATION,

Defendant.

**COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES
AND DEMAND FOR JURY TRIAL**

Plaintiffs, R.D. JONES, STOP EXPERTS, INC. and RRFB GLOBAL, INC., by their undersigned counsel, hereby sues the Defendant, TRAFFIC SAFETY CORPORATION, and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271, et seq., to enjoin and obtain damages resulting from Defendant's unauthorized manufacture, use, offer to sell and sale in the United States of Rapid Rectangular Flashing Beacons (RRFB's) in violation of Plaintiffs' rights under U.S. Patent Nos. 8,081,087 and 9,129,540.

2. Plaintiff, R.D. JONES, STOP EXPERTS, INC. ("STOP EXPERTS") is a corporation organized and existing under the laws of the state of Florida and having a principal place of business at 225 Center Court, Venice, Sarasota County, Florida.

3. Plaintiff, RRFB GLOBAL, INC. (“RRFB GLOBAL”), is a corporation organized and existing under the laws of the state of Florida, and having a principal place of business at 225 Center Court, Venice, Sarasota County, Florida.

4. Defendant, TRAFFIC SAFETY CORPORATION. (TSC) is a California corporation with offices at 2708 47th Avenue, Sacramento, California 95822-3806.

5. Defendant TSC does business within the state of Florida including, without limitation, in Hillsborough and Pasco Counties, Florida, in this judicial district and division.

6. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§ 1338(a).

7. This Court has personal jurisdiction over the Defendant pursuant to §§48.193(1) and/or 48.193(2), Fla. Stat. in that:

a. Defendant continuously and systematically engaged in business in the state of Florida including but not limited to advertising installations in the State of Florida;

b. Defendant, through their sales and installation and servicing of their infringing Rectangular Rapid Flashing Beacon (“RRFB”) systems, engaged in substantial and not isolated activities within the State of Florida;

c. Defendant advertised its products for sale in state of Florida;

d. Defendant sold its products to Florida customers and governmental agencies; and

e. Defendant engaged in a general course of business activity in the state of Florida for its own pecuniary benefit.

8. Venue is proper in this judicial district and division pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(b) because (1) the acts complained of occurred within this judicial district and division; and (2) Defendant has committed acts of infringement within and resides within this judicial district and division.

FACTS COMMON TO AND APPLICABLE TO ALL COUNTS

9. The Federal Government, through the Federal Highway Administration (FHWA), an agency of the United States Department of Transportation, promulgated rules for the use of flashing lights (sometimes referred to as flashing beacons) and these rules are published in the Manual on Uniform Traffic Control Devices, known by the acronym MUTCD.

10. On information and belief, the first MUTCD that mentions flashing beacons was the 1948 edition. The 1948 Edition, Part III, Signals, Section 278, states:

a. Flashing Beacon – A flashing beacon is a section of a standard traffic signal head or a similar type device having a yellow or red lens in each face, which is illuminated by rapidly intermittent flashes.

b. Flashing signal – A flashing signal is a standard highway traffic signal in which the yellow or red lens in each face is illuminated by rapidly intermittent flashes.

c. Flashing beacons and signals perform a very useful function at locations where traffic or physical conditions do not justify a conventional type of Stop-and-Go installation. At other special points of hazard, experience has indicated that the flashing beacon or signal is the only device sufficiently conspicuous to identify the hazard to the motorist.

11. The 1961 MUTCD Edition, Part III, Signals, Sections 3G-1 through 3G-7, states: “The illuminating element in a flashing yellow (caution) or flashing red (stop) beacon shall be flashed at a rate of not less than 50 nor more than 60 times per minute. The illuminated period of each flash shall be not less than half nor more than two-thirds of the total cycle.”

12. The 2003 Edition of the MUTCD, Chapter 4K contained the language “Beacons shall be flashed at a rate of not less than 50 nor more than 60 times per minute. The illuminated period of each flash shall not be less than one-half and not more than two-thirds of the total cycle.” Chapter 4K of the 2003 Edition of the MUTCD also indicated that if Warning Beacons have more than one signal section, they may be flashed either alternately or simultaneously.

13. Prior to the system and method described and claimed in the patents that are involved in this civil action, studies of flashing beacons at pedestrian crosswalks indicated a range of 18% to 25% driver compliance depending upon the specific location of the crosswalk.

14. In order to test a flashing beacon system that differs from the requirements of the MUTCD, it is necessary to obtain a Federal permit to conduct the testing.

15. In connection with the testing of the system and method described and claimed in the patents that are involved in this civil action, the FHWA granted Experimental Permit PTE No. 4-305(E).

16. The testing of the system and method described and claimed in the patents that are involved in this civil action were undertaken by Plaintiffs in the City of St. Petersburg, state of Florida, and the testing and result of the testing are referred to as the “St. Petersburg study”.

17. The City of St. Petersburg conducted tests of the system and method described and claimed in the patents that are involved in this civil action at 18 marked crosswalks.

18. In response to federal skepticism at the favorable test results of the of the system and method described and claimed in the patents that are involved in this civil action, the City of St. Petersburg extended the experiments for two years at some locations.

19. The remarkable results of the system and method described and claimed in the patents that are involved in this civil action according to the St. Petersburg study was an increase

from an average baseline driver compliance of 18 to 25% (depending upon location) to an average sustained compliance above 80% (and as high as 93% at some crosswalks).

20. The City of St. Petersburg and the Florida Department of Transportation then sought Federal approval to use the system and method described and claimed in the patents that are involved in this civil action beyond the experimental stage.

21. On July 16, 2008, the United States Federal Highway Administration issued an Interim Approval (IA-11) to the MUTCD for Rectangular Rapid Flashing Beacons, (RRFB's) based on the results of the testing of the system and method described and claimed in the patents that are involved in this civil action as reported by the City of St. Petersburg.

22. On or about August 3, 2010, the FHWA issued MUTCD- FHWA-DOT Interpretation Letter 4(09)-4(I) that a flashing pattern of two pulses from one unit followed by four pulses of the other unit would meet the requirements of IA-11.

23. On June 13, 2012, the FHWA replaced the initial July 16, 2008 Interim Approval (IA-11) with the following:

As a specific exception to 2003 MUTCD Section 4K.01 requirements for the flash rate of beacons, RRFBs shall use a much faster flash rate. Each of the two yellow indications of an RRFB shall have 70 to 80 periods of flashing per minute and shall have alternating, but approximately equal, periods of flashing light emissions and dark operation. During each of its 70 to 80 flashing periods per minute, the yellow indications on the left side of the RRFB shall emit two slow pulses of light after which the yellow indications on the right side of the RRFB shall emit four rapid pulses of light followed by a long pulse.

MUTCD-DOT-FHWA Interpretation Letter 4(09)-21 (I). June 13, 2012.

24. The flashing beacon system described in the Interpretation Letter 4(09)-21(I) referred to in this complaint is also referred to as the "2-5 flash pattern."

25. Attached as Exhibit “A” is a chart illustrating the on and off time periods for two light units according to the “2-5 flash pattern.”

26. On July 25, 2014, the FHWA issued Interpretation Letter 4(09)-41(I) which approved a different flash pattern referred to as the “WW+S flash pattern.”

27. Attached as Exhibit “B” is a chart illustrating the on and off time periods for two light units according to the “WW+S flash pattern.”

28. Defendant TSC uses the system and method described and claimed in the patents that are involved in this civil action.

29. Defendant TSC advertises that “RRFB significantly increase driver yielding behavior,” on its website referring to its RRFB systems that are marketed under one or more of (a) the 2008 Interim Approval (IA-11) to the MUTCD referred to above, (b) the 2010 MUTCD-FHWA-DOT Interpretation Letter 4(09)-4(I) referred to above, and (c) the 2012 MUTCD-DOT-FHWA Interpretation Letter 4(09)-21 (I) referred to above and (d) the 2014 MUTCD-DOT-FHWA Interpretation Letter 4(09)-41(I) referred to above.

30. On information and belief Defendant TSC manufactures, sells and installs RRFB systems that comply with one or more of (a) the 2008 Interim Approval (IA-11) to the MUTCD referred to above, (b) the 2010 MUTCD- FHWA-DOT Interpretation Letter 4(09)-4(I) referred to above, and (c) the 2012 MUTCD-DOT-FHWA Interpretation Letter 4(09)-21 (I) referred to above and (d) the 2014 MUTCD-DOT-FHWA Interpretation Letter 4(09)-41(I) referred to above.

31. On information and belief Defendant TSC does not manufacture, sell or install any RRFB systems that fail to comply with one or more of (a) the 2008 Interim Approval (IA-11) to the MUTCD referred to above, (b) the 2010 MUTCD- FHWA-DOT Interpretation Letter

4(09)-4(I) referred to above, and (c) the 2012 MUTCD-DOT-FHWA Interpretation Letter 4(09)-21 (I) referred to above and (d) the 2014 MUTCD-DOT-FHWA Interpretation Letter 4(09)-41(I) referred to above.

32. Prior to June 6, 2006, Mr. Richard Jones invented a new flashing beacon and method for slowing vehicle traffic now known as a Rapid Rectangular Flashing Beacon and referred to by the acronym RRFB which is in general terms the system and method described and claimed in the patents that are involved in this civil action.

33. Plaintiff STOP EXPERTS is the owner of all right, title and interest in and to the patents that are involved in this civil action by way of assignment, including but not limited to the right to sue for past infringement.

34. Plaintiff RRFB GLOBAL is the exclusive licensee of the patents that are involved in this civil action.

35. Plaintiff RRFB GLOBAL manufactures and sells RRFB systems using the system and method described and claimed in the patents that are involved in this civil action (“Plaintiff’s RRFB Systems”). Stop Experts, Inc. is a Florida corporation that previously sold and developed RRFB systems and is a related company to RRFB GLOBAL and STOP EXPERTS.

36. One or more of STOP EXPERTS, RRFB Global and Stop Experts, Inc. is approved to sell RRFBs in the State of Florida.

37. Plaintiffs have engaged the undersigned attorneys and have agreed to pay them a reasonable fee.

COUNT I
DIRECT INFRINGEMENT OF U.S. PATENT No. 8,081,087

38. Plaintiffs re-allege paragraphs 1 – 37 as fully and completely as if set forth herein verbatim.

39. Prior to June 6, 2006, Mr. Richard D. Jones invented a novel and non-obvious Flashing Beacon as well as a method for the use of the Flashing Beacon.

40. Mr. Richard D. Jones applied for and received U.S. Patent No. 8,081,087 (the '087 Patent) which was granted on December 20, 2011. A true and correct copy of the '087 Patent is attached as Exhibit "C".

41. Mr. Richard D. Jones assigned all right, title and interest in and to the '087 Patent to STOP EXPERTS.

42. In general terms, the '087 Patent relates to a flashing beacon system and method for improving driver compliance at pedestrian crossings thus resulting in increased pedestrian safety and a reduction in vehicle-pedestrian and vehicle-vehicle accidents at pedestrian crossings.

43. Beginning on or after December 20, 2011, Defendant TSC infringed at least one claim of the '087 Patent by offering to sell, making and selling RRFB products to one or more entities and/or governmental entities within the State of Florida.

44. The '087 Patent has four independent claims.

45. Each of the independent claims of the '087 patent includes the following language: "at least two light units ...configured to generate a wig-wag flash pattern, the pattern including emitting within a predetermined time two light flashes from one light unit on the front face and three light flashes from the other light unit on the front face."

46. Attached as Exhibit "D" is one non-limiting explanation of how the 2-5 flash pattern corresponds to the language of the independent claims of the '087 Patent as set forth above in paragraph 45.

47. Attached as Exhibit “E” is one non-limiting explanation of how the WW+S flash pattern corresponds to the language of the independent claims of the ‘087 Patent as set forth above in paragraph 45.

48. On information and belief all TSC RRFB products including but not limited to those sold and/or installed and/or delivered on or after December 20, 2011 operate according to either the 2-5 flash pattern or the WW+S flash pattern.

49. In the event that the TSC RRFB products including but not limited to those sold and/or installed and/or delivered on or after December 20, 2011, operate according to the aforementioned IA-11, but not according to either the 2-5 flash pattern or the WW+S flash pattern, Plaintiffs reserve the right to supplement this Count.

50. The activities of TSC referred to in this Count literally infringe at least each of claims 1, 2, 7, 10, 11, and 18 of the ‘087 Patent in violation of 35 U.S.C. § 271(a).

51. The activities of TSC as set forth in this Count have been without license, permission or authorization from Plaintiffs.

52. The activities of TSC as set forth in this Count have been and continue to be to the injury and detriment of Plaintiffs and irreparable harm to Plaintiffs.

53. Plaintiffs complied in all respects with the patent marking provisions of 35 U.S.C. § 287.

COUNT II
INDIRECT INFRINGEMENT OF U.S. PATENT NO. 8,081,087

54. Plaintiffs re-allege paragraphs 1 through 37, and 40 through 49 as fully and completely as if set forth herein verbatim.

55. TSC intends that the RRFB products referred to in Count I be used to slow vehicle traffic.

56. TSC does not advertise any use of the RRFB products referred to in Count I other than to slow vehicle traffic.

57. TSC does not know of any substantial use of the RRFB products referred to in Count I other than to slow vehicle traffic.

58. The RRFB products referred to in Count I are not staple articles or commodities of commerce suitable for substantial non-infringing uses.

59. The use of the RRFB products referred to in Court I constitutes literal infringement of at least claim 14 of the '087 Patent in violation of 35 U.S.C. § 271(a).

60. Regardless of whether TSC supplies all the elements of any of the claims for the products referred to in Count I, use of those RRFB products by customers and end-users in their intended fashion results in the customer/end-user directly infringing claims 1, 2, 7, 10, 11 and 18 of the '087 Patent in violation of 35 U.S.C. § 271(a).

61. The activities of TSC referred to in this Count II constitute active inducement of infringement of at least one of claims 1, 2, 7, 10, 11, 14 and 18 of the '087 Patent in violation of 35 U.S.C. § 271(b).

62. The activities of TSC referred to in this Count II constitute contributory infringement of at least claim 14 of the '087 Patent in violation of 35 U.S.C. § 271(c).

63. The activities of TSC as set forth in this Count have been without license, permission or authorization from Plaintiffs.

64. The activities of TSC as set forth in this Count have been and continue to be to the injury and detriment of Plaintiffs and cause irreparable harm to Plaintiffs.

65. Plaintiffs complied in all respects with the patent marking provisions of 35 U.S.C. § 287.

COUNT III
DIRECT INFRINGEMENT OF U.S. PATENT No. 9,129,540

66. Plaintiffs re-allege paragraphs 1 through 37 and 39 as fully and completely as if set forth herein verbatim.

67. Mr. Richard D. Jones applied for and received U.S. Patent No. 9,129,540 (the ‘540 Patent) which was granted on September 8, 2015 as a continuation of the patent application that became U.S. Patent No. 8,269,654 which, in turn, is a continuation of the patent application that became the ‘087 Patent. A true and correct copy of the ‘540 Patent is attached as Exhibit “F”.

68. In general terms, the ‘540 Patent relates to a flashing beacon system and method for improving driver compliance at a pedestrian crossings thus resulting in increased pedestrian safety and a reduction in vehicle-pedestrian and vehicle-vehicle accidents at pedestrian crossings.

69. Beginning on or after September 8, 2015, Defendant TSC infringed at least one claim of the ‘540 Patent by offering to sell, making and selling RRFB products to one or more entities and/or governmental entities within the state of Florida.

70. The ‘540 Patent has three independent claims.

71. Each of the independent claims of the ‘540 Patent includes the following language: “wherein for each cycle a period between at least two light flashes from the first light unit is greater than a period between at least two light flashes from second light unit.”

72. Attached as Exhibit “G” is one non-limiting explanation of how the 2-5 flash pattern corresponds to the language of the independent claims of the ‘540 Patent as set forth above in paragraph 71.

73. Attached as Exhibit “H” is one non-limiting explanation of how the WW+S flash pattern corresponds to the language of the independent claims of the ‘540 Patent as set forth above in paragraph 71.

74. On information and belief all TSC RRFB products including but not limited to those sold and/or installed and/or delivered on or after September 8, 2015, operate according to either the 2-5 flash pattern or the WW+S flash pattern.

75. In the event that the TSC RRFB products delivered on or after September 8, 2015 operate according to the aforementioned IA-11, but not according to either the 2-5 flash pattern or the WW+S flash pattern, Plaintiffs reserve the right to supplement this Count.

76. The activities of TSC referred to in this Count literally infringe at least claim 6 of the ‘540 Patent in violation of 35 U.S.C. § 271(a).

77. The activities of TSC as set forth in this Count have been without license, permission or authorization from Plaintiffs.

78. The activities of TSC as set forth in this Count have been and continue to be to the injury and detriment of Plaintiffs and irreparable harm to Plaintiffs.

79. Plaintiffs complied in all respects with the patent marking provisions of 35 U.S.C. § 287.

COUNT IV
INDIRECT INFRINGEMENT OF U.S. PATENT NO. 9,120,540

80. Plaintiffs re-allege paragraphs 1-37, 39 and 67 through 76 as fully and completely as if set forth herein verbatim.

81. TSC intends that the RRFB products referred to in Count III be used to control a traffic-directing device to provide improved driver compliance.

82. TSC does not advertise any use of the RRFB products referred to in Count III other than to control a traffic-directing device to provide improved driver compliance.

83. TSC does not know of any substantial use of the RRFB products referred to in Count III other than to control a traffic-directing device to provide improved driver compliance.

84. The RRFB products referred to in Count III are not staple articles or commodities of commerce suitable for substantial non-infringing uses.

85. The use of the RRFB products referred to in Court III constitutes literal infringement of at least one claim 9 of the '540 Patent in violation of 35 U.S.C. § 271(a).

86. Regardless of whether TSC supplies all the elements of any of the claims for the products referred to in Count III, the use of those RRFB products by customers and end-users in their intended fashion results in the customer/end-user directly infringing those claims of the '540 Patent in violation of 35 U.S.C. § 271(a).

87. The activities of TSC referred to in this Count IV constitute active inducement of infringement of at least claims 6 and 9 of the '540 Patent in violation of 35 U.S.C. § 271(b).

88. The activities of TSC referred to in this Count IV constitute contributory infringement of at least claims 6 and 9 of the '540 Patent in violation of 35 U.S.C. § 271(c).

89. The activities of TSC as set forth in this Count have been without license, permission or authorization from Plaintiffs.

90. The activities of TSC as set forth in this Count have been and continue to be to the injury and detriment of Plaintiffs and irreparable harm to Plaintiffs.

91. Plaintiffs complied in all respects with the patent marking provisions of 35 U.S.C. § 287.

WHEREFORE, PLAINTIFFS PRAY:

A. For judgment that TSC has directly or indirectly infringed at least one claim of the '087 Patent;

B. For judgment that TSC has directly or indirectly infringed at least one claim of the '540 Patent;

C. For an accounting and an award of damages sufficient to compensate Plaintiffs for the infringement but in no event less than a reasonable royalty;

D. That the Court Enter Temporary Restraining Order, as well as Preliminary Injunction, in favor of Plaintiffs, enjoining Defendant and all other person in active concert or participation with them, either directly or indirectly, from:

i. making, using, selling, importing, repairing, assembling or offering for sale RRFB devices that infringe any claim of the '087 patent or any product no more than colorably different from such devices;

ii. infringing any claim of the '087 patent;

iii. aiding, contributing or cooperating with third parties who make, use, sell, import, assemble or offer for sale parts or components that when finally assembled and/or used will infringe the '087 patent;

iv. making, using, selling, importing, repairing, assembling or offering for sale RRFB devices that infringe any claim of the '540 patent or any product no more than colorably different to such devices;

v. infringing any claim of the '540 patent;

vi. aiding, contributing or cooperating with third parties who make, use, sell, import, assemble or offer for sale parts or components that when finally assembled and/or used will infringe the '540 patent;

E. That the Court Enter a Permanent Injunction in favor of Plaintiffs enjoining the patent infringement by Defendant;

F. That the Court find that there is willful infringement at least as to the '087 patent and award enhanced damages;

G. That the Court determine that this is an exceptional case at least as to the '087 patent;

H. That the Court awarding Plaintiffs their attorney fees under 35 U.S.C. § 285;

I. That the Court award Plaintiffs their costs; and

J. For such other and further relief as to the Court appears just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial as to all issues so triable.

DATED: June 21, 2016

Respectfully submitted,

/s/ Jerold I. Schneider

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