

UNITED STATES DISTRICT COURT  
For The  
SOUTHERN DISTRICT OF FLORIDA

RAPTOR LLC &	)	
CONCRETE SERVICES, LLC	)	
	)	
(Plaintiffs)	)	
	)	
vs.	)	Civil Action No.
	)	
ODEBRECHT CONSTRUCTION INC.	)	
(A Florida Corporation)	)	
JAIRO FLOR, (An Individual),		
BARREIRO CONSTRUCTION CORP.	)	
(A Florida Corporation)	)	
ABELE BARREIRO, (An Individual)	)	
BARREIRO CONCRETE MATERIALS, INC.	)	
(A Florida Corporation)	)	
AMERICO BARREIRO, (An Individual)	)	
(Defendant(s))		

**COMPLAINT FOR PATENT INFRINGEMENT**

The Plaintiffs, Raptor, LLC., (hereinafter also “Raptor”), & Concrete Services, LLC, (hereinafter also “Concrete Services”), by counsel, alleges for their Complaint, upon knowledge, with respect to their own acts, and upon information and belief, as to all other matters, as follows:

Nature of the Action

The Plaintiffs, Raptor, LLC., (Raptor) a Florida Limited Liability Company, and Concrete Services, LLC, (Concrete Services), (both based in Boynton Beach, Florida), brings this action against the Defendants, Odebrecht Construction Inc. (“*Odebrecht*”), Jairo Flor (President of *Odebrecht*), Barreiro Construction Corp. (“*Barreiro Construction*”), Abele Barreiro, (President of *Barreiro Construction*), Barreiro Concrete Materials, Inc. (“*Barreiro Concrete*”) & Americo

Barreiro, (President of *Barreiro Concrete*) for infringement of US Patent 8,920,068 (also “**068 Patent**” or “**System Patent**”) and 8,956,075 (also “**075 Patent**” or “**Tunnel Mold Patent**”), copies of US Patent 8,920,068 (also “**068 Patent**” or “**System Patent**”) and US Patent 8,956,075 (also “**075 Patent**” or “**Tunnel Mold Patent**”), copies of US Patent 8,920,068 annexed hereto as **Exhibit “1”**; and copy of US Patent 8,956,075 annexed hereto as **Exhibit “2”**.

### **Jurisdiction and Venue**

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1338 (patent laws of the United States), 28 U.S.C. §1331 (federal question), 28 U.S.C. §1367 (supplemental jurisdiction), and principals of ancillary and pendent jurisdiction.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b), §1391(c), and otherwise because, among other things, both the Defendants, personally resides in this judicial district. Moreover, the corporate Defendants, have their principal place of business in this judicial district and a substantial part of the events or omissions giving rise to this action occurred in this judicial district.

### **Parties**

3. The Plaintiff, Raptor, LLC., a Florida Limited Liability Company, is the owner by absolute assignment, of US Patent 8,920,068 (also “**068 Patent**” or “**System Patent**”) and US Patent 8,956,075 (also “**075 Patent**” or “**Tunnel Mold Patent**”).

4. The Plaintiff, Concrete Services LLC, a Florida Limited Liability Company, is the exclusive licensee of the each of the US Patent 8,920,068 (also “**068 Patent**” or “**System Patent**”) and US Patent 8,956,075 (also “**075 Patent**” or “**Tunnel Mold Patent**”); and, has the right to enforce same.

5. The Defendant, Odebrecht Construction Inc. (“*Odebrecht*”), is a Florida Corporation having its principle place of business in Coral Gables, Florida. Upon information and belief, the Defendant, *Odebrecht*, conducts its business from its offices in Coral Gables, Florida.

6. The Defendant, Jairo Flor, is the owner and/or president of the Defendant, *Odebrecht*.. Upon informatioin and belief Jairo Flor resides in this judicial district and controls and directs the actions of the Defendants *Odebrecht*, including the unlawful conduct of the *Odebrecht*, recited hereinafter, within and from this judicial district.

7. The Defendant, Barreiro Construction Corp. (“*Barreiro Construction*”), is a Florida Corporation having its principle place of business in Princeton, Florida. Upon information and belief, the Defendant, *Barreiro Construction*., conducts its business from its offices in Princeton, Florida.

8. The Defendant, Abele Barreiro, is the owner and/or president of the Defendant, *Barreiro Construction*.. Upon informatioin and belief Abele Barreiro resides in this judicial district and controls and directs the actions of the Defendants *Barreiro Construction*, including the unlawful conduct of the *Barreiro Construction*, recited hereinafter, within and from this judicial district.

9. The Defendant, Barreiro Concrete Materials, Inc. (“*Barreiro Concrete*”), is a Florida Corporation having its principle place of business in Princeton, Florida. Upon information and belief, the Defendant, *Barreiro Concrete*, conducts its business from its offices in Princeton, Florida.

10. The Defendant, Americo Barreiro, is the owner and/or president of the Defendant, *Barreiro Concrete*.. Upon informatioin and belief, Americo Barreiro resides in this judicial

district and controls and directs the actions of the Defendants *Barreiro Construction*, including the unlawful conduct of the *Barreiro Concrete*, recited hereinafter, within and from this judicial district.

#### BACKGROUND FACTS

11. On December 30, 2014, the United States Patent No. **8,920,068** was issued to the inventors, Patrick Shawn Free and Eric C. Kontos, for an invention entitled “Process for Slip Forming Bridge Coping With *Exposed* Rebars” (“Systems Patent”).

12. On February 17, 2015, the United States Patent No. **8,956,075** was issued to the inventors, Patrick Shawn Free and Eric C. Kontos, for an invention entitled “Tunnel Mold System & Method For Slip Forming Concrete Structure With *Exposed* Rebars” (“Tunnel Mold Patent”).

13. On November 14, 2013, the inventor, Patrick Shawn Free assigned all right title and interest in the United States Patent No. **8,920,068**, and **8,956,075** to RAPTOR, copies of Recorded Free Assignment to Raptor annexed hereto as **Composite Exhibit “3”**.

14. On October 23, 2013, Eric C. Kontos, assigned all right title and interest in the United States Patent No. **8,920,068**, and **8,956,075** to Raptor, copies of Recorded Free Assignment to RAPTOR annexed hereto as **Composite Exhibit “4”**.

15. On January 15, 2014, Raptor granted Concrete Services the exclusive right and license under United States Patent No. **8,920,068**, and **8,956,075**, (also collectively “Patent Rights”), including the right to enforce such patents.

16. At all times material hereto, the Plaintiffs have and continue to notice the industry, including the Defendants, of their issued patent rights, and to prominently mark their Tunnel Mold with numbers of their issued patents. Upon information and belief, the Florida

Department of Transportation (FDOT) standards and regulations, did not permit the Plaintiffs' to mark the slip formed coping structures, fabricated by Plaintiffs, under the Plaintiffs' United States Patent No. **8,920,068**, and **8,956,075**, with the numbers of the Plaintiffs' United States Patents. On April 6, 2017, the Plaintiffs, through counsel, sent a formal Notice of Infringement of Plaintiffs' United States Patent No. **8,920,068**, and **8,956,075**, to each of *Barreiro Construction*, and *Barreiro Concrete*, by Certified Mail, Return Receipt Request. Each of *Barreiro Construction*, and *Barreiro Concrete*, received this Notice of Infringement, on April 6, 2017. Upon information and belief, each of *Barreiro Construction*, and *Barreiro Concrete*, have ignored the Plaintiffs' Notice of Infringement, and continue to infringe Plaintiffs' United States Patent No. **8,920,068**, and **8,956,075**

17. The fabrication of structures slip formed coping structures, with ***exposed*** rebars, on Florida Department of Transportation (FDOT) highway projects is governed by, *inter alia*, FDOT standards and engineering specifications.

18. The means and methods for slip forming of reinforced concrete coping structures, with exposed re-bars, on FDOT highway construction projects, can only be accomplished with the proprietary equipment and methods developed by the Plaintiffs, utilizing the patented equipment and methods developed by the Plaintiffs, and associated exclusively with the Plaintiffs

COUNT I  
(Direct Infringement)

19. The Plaintiffs incorporate paragraphs 3-18, as if restated herein and further allege:

20. Upon information and belief, *Odebrecht* is the General or Prime Contractor for the Florida Department of Transportation ("FDOT") projects, designated as:

- MDX Project No. 83628, SR 836/Dolphin Modernization Project (NW 57<sup>th</sup> Avenue to NW 17<sup>th</sup> Avenue - A photograph of Defendants' System being used on MDX Project No. 83628annexed hereto **Exhibit "5"**,
- MDX Project No. 83628, Expressway Interchange Modification @ NW 87<sup>th</sup> Avenue

21. On March 17, 2015, *Odebrecht* solicited Plaintiffs to submit a proposal ("Request for Proposal"), for "bridge railing", **Exhibit "6"** A true and correct copy of the *Odebrecht* Request for Proposal is annexed heretop as **Exhibit "6"** A "bridge railing" is a "composite structure" made up of a "bridge coping" and a "traffic rail", with embedded reinforcement materials, (rebars), integral within, and in common or shared, by each component of the composite structure. The Plaintiffs met with *Odebrecht* on May 7, 2015, and again of July 1, 2015; made a presentation of the Plaintiffs' proprietary and patented technology for the slip molding a "coping structure", with exposed re-bars, on FDOT projects; and, solicited future coping structure work, under subcontract, from *Odebrecht*. The Plaintiffs' presentation included a "show & tell" video demonstration of the Plaintiffs' proprietary and patented technology slip molding system and methodology; prominently featured and identified the Plaintiffs' issued patents; and, emphasized the cost advantages, including, specifically, the early completion, incentive payments ("bonus payments"), potentially available to *Odebrecht* from the FDOT, utilizing the Plaintiffs' proprietary and patented technology slip molding system and methodology.

22. Upon information and belief, the FDOT early completion, incentive (bonus) payment is **\$15,000/day**; and, in fact, *Odebrecht*, **may save more than \$15,000/day**, by the early completion of its FDOT prime contract with the FDOT, utilizing the Plaintiffs' proprietary and patented technology slip molding system and methodology

23. Upon information and belief, from and after the Plaintiffs' presentation to *Odebrecht* in 2015, *Odebrecht* conspired with *Barreiro Construction*, and *Barreiro Concrete*, to (a) undertake the fabrication of the Plaintiffs' proprietary and patented Tunnel Molds, and (b) wrongfully gain access to Plaintiffs' non-public proprietary information and technology for the Plaintiffs' slip forming System for fabrication of slip formed coping structures, with exposed rebars.

24. Upon information and belief, from and after the Plaintiffs' presentation to *Odebrecht* in 2015, *Odebrecht* conspired with *Barreiro Construction*, and *Barreiro Concrete*, to (a) surreptitiously inspected the Plaintiffs' proprietary and patented Tunnel Molds on an FDOT job site; (b) arranged for one of their "former" employees to seek employment with the Plaintiffs, to gain access to Plaintiffs' non-public and proprietary information, relative to the Plaintiffs' proprietary and patented slip forming System and Tunnel Molds; and, (c) slavishly duplicated the measurements and specifications of the Plaintiffs patented slip forming System and Tunnel Molds, and support equipment therefor.

25. The Defendants, from and after the Plaintiffs' presentation to *Odebrecht* in 2015, *Odebrecht* conspired with *Barreiro Construction*, and *Barreiro Concrete*, without authorization and/or right, to intentionally engage in the infringement, and in the violation of the Plaintiff's Patent Rights, by

(a) fabrication and use of a Tunnel Mold, in violation of one or more of the claims of **8,956,075**;

(b) use of a System for fabrication of a slip formed coping, with exposed rebars, in violation of one or more of the claims of **8,920,068**,

- MDX Project No. 83628, SR 836/Dolphin Modernization Project (NW 57<sup>th</sup> Avenue to NW 17<sup>th</sup> Avenue - A photograph of Defendants' System being used on MDX Project No. 83628, Photographs of Defendants utilizing the Plaintiffs' proprietary and patented slip molding system, tunnel mold and methodology are annexed hereto **Composite Exhibit "6"**,
- MDX Project No. 83628, Expressway Interchange Modification @ NW 87<sup>th</sup> Avenue

26. Upon information and belief, *Odebrecht's* wining bid for the Prime contract, including the projects set forth in Paragraph (25), projected an early completion date of **350 days**, earlier than the FDOT target date for completion of the Prime contract; and, earlier than the next lower competitive bidder. Upon information and belief, the unauthorized adoption and use of the Plaintiffs' proprietary and patent System, for slip forming coping structures, and Tunnel Mold, has enabled *Odebrecht* to bid, and thereby projected, an early completion date of **350 days**, under his Prime contract with the FDOT. Accordingly, the projected early completion bonus under the FDOT Prime contract with *Odebrecht*, is \$5,250,000.

27. The Defendants actions, both individually and collectively, as as set forth Paragraphs 22-25, constituted direct infringement of at least one of Claims, (specifically Claims 5, 6, 7, 12, 13, 14, 19, 20 and 21). of US Patent **8,956,075 (Tunnel Mold Patent)**.

28. The The Defendants actions, as as set forth Paragraphs 22 to 25, both individually and collectively, constituted direct infringement of at least one of Claims, (specifically, Claims 6, 7, 8, 14, 15, and 16) of US Patent **8,920,068, (System Patent)**.

29. The Defendants actions, both individually and collectively, as as set forth paragraphs 17 to 19, inclusive, violate 35 USC 271(a) for making and using a tunnel mold in violatoin of US Patent **8,956,075**.



30. The Defendants actions, both individually and collectively, as set forth paragraphs 17 to 19, inclusive, violate 35 USC 271(a), for slip forming a bridge coping with exposed rebars, with a tunnel mold, in violation of US Patent **8,920,068** and **8,956,075**.

31. The Defendants actions, both individually and collectively, as set forth in paragraphs 20-21, have been intentional and calculated to cause injury to the Plaintiffs.

RELIEF REQUESTED

WHEREFORE, the Plaintiffs demand, as against the Defendants, as against jointly and severally, as follows:

- (a) A preliminary and final injunction against the continuing infringement US Patent **8,920,068** and/or **8,956,075**.
- (b) An accounting for damages, specifically, the greater amount of the Defendants' profits or the Plaintiffs' losses, of not less than \$2,625,00.00, (or at least 50% of the FDOT early completion bonus;
- (c) Destruction of all infringing equipment;
- (d) Exemplary damages for intentional infringement of not less than three (3) time the actual damages, or \$7,875,000; and
- (e) Attorney fees, interest and costs

Respectfully,

/s/ John H. Faro  
John H. Faro, Esq.  
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