

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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U.S. DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE

SPIROFLOW SYSTEMS, INC.,
a North Carolina corporation,

Plaintiff,

v.

FLEXICON CORPORATION,
a New Jersey corporation

Defendant.

Civil Action No. 3: 02CV70-MCK

AMENDED COMPLAINT
(Jury Trial Demanded)

PARTIES

1. Plaintiff Spiroflow Systems, Inc. ("Spiroflow"), by change of name from Spiroflow-Orthos Systems, Inc., is a corporation duly organized under the laws of the State of North Carolina having a principal place of business at 2806 Gray Fox Road, Monroe, NC 28110.
2. Defendant Flexicon Corporation ("Flexicon") is a corporation duly organized under the laws of the State of New Jersey having a principal place of business at 1375 Stryker's Road, P.O. Box 5269, Phillipsburg, NJ 08865-5269.

JURISDICTION

3. This civil action arises under the Patent Laws of the United States, United States Code, Title 35, Section 1 et seq., and in particular, 35 U.S.C. § 271.

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4. Jurisdiction is proper in this Court under the provisions of 28 U.S.C. § 1338(a) in that the claims of the Complaint arise under the Patent Laws of the United States.

5. Venue is proper in this Court as to the Defendant under 28 U.S.C. § 1391(b)(1), (b)(2), and (c), and 28 U.S.C. § 1400(b).

6. This Court has jurisdiction pursuant to 28 U.S.C. § 1331.

7. Flexicon has sufficient contacts with North Carolina to satisfy the assertion of personal jurisdiction over it by this Court.

FACTUAL BACKGROUND

8. Spiroflow and Flexicon both design and manufacture various types of industrial machinery. Most importantly for purposes of this action, Spiroflow and Flexicon both design and manufacture machinery intended to efficiently control the discharge of material from bulk bags.

9. Spiroflow is the owner of all right, title, and interest in and to U.S. Pat. No. 5,787,689 (“the ‘689 Patent”), entitled “BAG DISCHARGE CONSTRICTION APPARATUS AND METHOD FOR CONSTRICTION CONTROL,” which issued on August 4, 1998.

10. Spiroflow has recently learned that Flexicon is practicing and/or has practiced methods and/or has manufactured, used, sold and/or offered for sale machinery that infringe one or more claims of the ‘689 Patent.

CLAIM FOR RELIEF
PATENT INFRINGEMENT

11. Flexicon has infringed and continues to infringe one or more claims of the '689 Patent by making, using, selling, and offering for sale in this District and elsewhere, products and/or methods that are within the scope of the '689 Patent, all in violation of the Patent Laws of the United States, including, *inter alia*, 35 U.S.C. § 271. Specifically, Flexicon is making, using, offering for sale and selling an infringing bag discharge constriction device referred to by the trademark "Power-Cincher", and which comprises a flow control valve which cinches the spout of the bag concentrically on a horizontal axis, as shown in the attached advertisement, Exhibit 1.

12. Flexicon has knowledge of the '689 Patent; despite that knowledge, Flexicon continues to make, use, sell, or offer for sale infringing products and/or methods, and therefore willfully infringes the '689 Patent.

13. These acts of infringement are irreparably harming and causing damage to Spiroflow and will continue to do so unless and until restrained by this Court.

PRAYER FOR RELIEF

WHEREFORE, Spiroflow prays:

A. That this Court, in accordance with 35 U.S.C. § 283, preliminarily and permanently enjoin Flexicon from infringing the '689 Patent and engaging in any advertising or sales of its infringing products and/or methods;

B. That Spiroflow be awarded judgment against Flexicon for damages resulting from Flexicon's infringement of the '689 Patent, and that such damages be trebled in accordance with

provisions of 35 U.S.C. § 284, and that Spiroflow be awarded its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

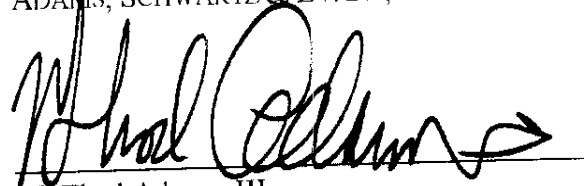
C. That this Court award Spiroflow interest, costs, and such further relief that this Court deems just and equitable;

D. That this Court order Flexicon to pay Spiroflow all its reasonable taxable costs in a sum and manner deemed appropriate by this Court based on the deliberate and willful infringement by Flexicon as set forth in this Complaint; and

E. That all triable issues be tried by jury.

Respectfully submitted,

ADAMS, SCHWARTZ & EVANS, P.A.

A handwritten signature in black ink, appearing to read "W. Thad Adams, III", written over a horizontal line.

W. Thad Adams, III
Attorney for Plaintiff

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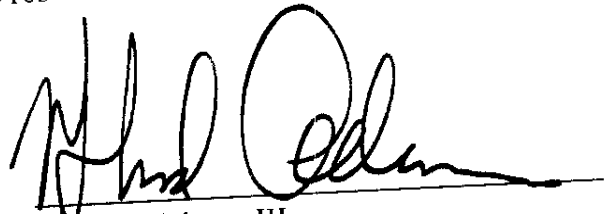
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing AMENDED COMPLAINT was duly served upon the Defendant by first class mail to the following attorneys of record:

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This the 5th day of April, 2002.



W. Thad Adams, III
Attorney for Plaintiff

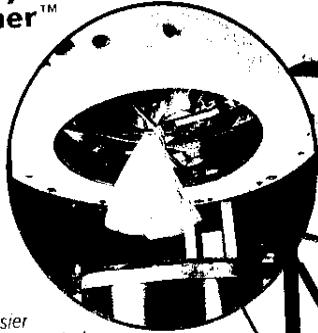
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Revolutionary design eliminates 4 bulk bag discharging problems

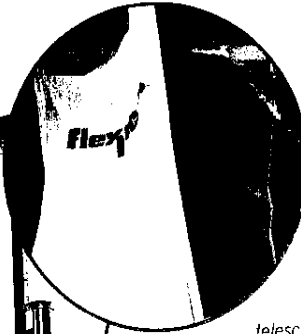
Cinch spouts concentrically with Power-Cincher™ flow control valve

Unlike opposing bars that pinch the spout of partially empty bags from two sides, the Power-Cincher™ flow control valve cinches the spout concentrically—on a horizontal axis for easier tie offs and greater flow control, and vertically in a tight zigzag pattern to prevent leaks. Unlike iris valves, it is not subject to jamming, breaking and leaking, and allows full-open discharge from bag spouts of any diameter.



Eliminate dust during disconnect and bag collapse with Bag-Vac™ containment system

The Bag-Vac™ system vacuums displaced air and dust from the receiving vessel and returns clean air to the plant. The vacuum also causes empty bags to collapse dust free prior to disconnect, eliminating the dust emitted during manual flattening of empty bags. With optional double-wall telescoping tube, it vacuums any particles dropped from spout creases during disconnect, while eliminating awkward access ports.



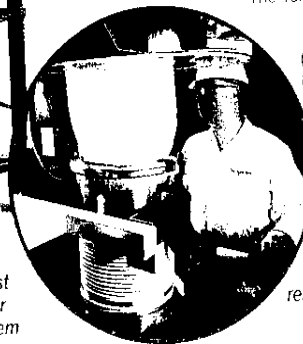
Eliminate dust during hook-up/discharge with Spout-Lock™ clamp ring

The Spout-Lock™ clamp ring creates a high-integrity, sealed connection between the clean side of the bag spout and the clean side of telescoping tube. This prevents contamination of the product, while eliminating the plant contamination that occurs when falling material rapidly displaces air and dust. It also stretches the spout downward in combination with the Tele-Tube™ telescoping tube (see #4).



Prevent dead spots and promote flow with Tele-Tube™ telescoping tube

The Tele-Tube™ telescoping tube pneumatically raises the Spout-Lock™ clamp ring (see #2) for connection to the bag spout, then allows it to lower, applying continual downward tension. As a result, the spout is kept taut at all times, preventing excess spout material from bulging outward (creating dead spots) or falling inward (creating flow restrictions). Works in unison with Flow-Flexer™ bag actuators to promote flow.



Units available with cantilevered I-beam, hoist and trolley (shown), with bag lifting frame for forklift loading, and with integrated scale system for loss-of-weight batching directly from bags.

Patented advances make other designs obsolete

Flexicon design innovations boost the productivity, safety, and cleanliness of your bulk bag discharging operations far beyond the limits of other designs. And unlike Flexicon's previous generation dischargers, widely copied by competitors, these new generation machines are based on advances that are patented or patent pending.

Flexicon also offers: bulk bag fillers, flexible screw conveyors,

weigh batching systems, blenders, bag dump stations, drum dumpers and other mechanical process equipment—as individual units or engineered, automated systems integrated with your new or existing process—constructed and finished to industrial, food, dairy and pharmaceutical standards.

Call for free, new video

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flexicon®

Patents granted and/or pending.
©2000 Flexicon Corporation. Flexicon Corporation has registrations and pending applications for the trademark FLEXICON throughout the world.

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