

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DENIS CIMAF, INC.)	Case No: 1:17-cv-820
188 De l'Église)	
Roxton Falls)	Judge
Quebec, CA J0H 1E0)	
)	
Plaintiff,)	COMPLAINT
)	
v.)	JURY DEMAND
)	
FECON, INC.)	
3460 Grant Ave)	
Lebanon, OH 45036-6432)	
)	
PLEASE ALSO SERVE:)	
FECON, INC.,)	
c/o Dinsmore Agent Co.)	
191 W. Nationwide Blvd, Ste. 300)	
Columbus, OH 43215-2569)	
)	
Defendant.)	

Plaintiff, Denis Cimag, Inc., for its complaint of patent infringement against Defendant Fecon, Inc., alleges as follows:

THE PARTIES

1. Plaintiff Denis Cimag, Inc. (“Cimag” or “Plaintiff”) is a Canadian corporation with its principle place of business in Roxton Falls, Quebec, Canada.
2. On information and belief, Defendant Fecon, Inc. (“Fecon” or “Defendant”) is a corporation incorporated in the State of Ohio with its principal place of business in Lebanon, Ohio.

NATURE OF THE ACTION

3. This is a civil action against Fecon for patent infringement arising under the patent statutes of the United States, 35 U.S.C. § 271 *et seq.* for the infringement of United States Patent No. 6,764,035 (the “’035 patent”). A true and correct copy of the ’035 patent is attached as Exhibit #1 to this Complaint.

JURISDICTION AND VENUE

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

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 1400(b). On information and belief, Fecon has transacted business in this district; has committed acts of patent infringement in this district; and has a regular and established place of business in this district.

BACKGROUND

Cimaf’s ’035 Patent

6. Cimaf is a company that designs and manufactures machinery for land clearing, forest fire prevention, roadside maintenance, and other land management applications.

7. On July 20, 2004, the U.S. Patent and Trademark Office duly and legally issued the ’035 patent, entitled “Brush Cutter,” to inventors Gilles Denis and Laurent Denis.

8. Cimaf is the owner, by assignment, of all rights, title, and interest in the ’035 patent.

Fecon and Its Tool Rotors

9. On information and belief, Fecon is a company that manufactures forestry mulchers, forestry track carriers, bio-mass harvesting equipment, and other land management machinery.

10. On information and belief, Fecon has designed and manufactured tool rotors that include protective guards. *See* Exhibit #2, Fecon's website describing its tool rotors, accessed on November 10, 2017 at <http://fecon.com/forestry/equipment/mulching-attachments/tools-rotors/>.

COUNT I: INFRINGEMENT OF THE '035 PATENT

11. Cimaf adopts and incorporates by reference the allegations set forth in paragraphs 1-10, inclusive.

12. On information and belief, Fecon infringes at least claim 20 of the '035 patent by making, using, selling, and offering to sell products that include a brush cutting head and protective guards (*see, e.g.*, Exhibit #3 that compares the limitations of claim 20 of the '035 patent to Fecon's tool rotors).

13. On information and belief, Fecon will continue to infringe the claims of the '035 patent unless enjoined by this Court.

14. Cimaf has been and will continue to be irreparably harmed by Fecon's infringing acts, requiring the entry of a permanent injunction to prevent Fecon's further infringement of the '035 patent because Cimaf does not have another adequate remedy at law.

JURY DEMAND

15. Cimaf demands a trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, Cimaf pray the Court to:

a) grant a permanent injunction against Fecon's continued infringement;

- b) award damages of not less than a reasonable royalty;
- c) award prejudgment and postjudgment interest;
- d) find that this case is an exceptional case under 35 U.S.C. § 285 and award attorneys' fees;
- e) award costs; and
- f) grant all other relief to which Cimaf is entitled.

Respectfully Submitted,

/s/ James E. Burke

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