

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RTC INDUSTRIES, INC.,
an Illinois corporation,

Plaintiff,

V.

FASTENERS FOR RETAIL, INC.,
an Ohio corporation,

Defendant.

Civil Action No. 1:18-cv-02782

JURY DEMAND

COMPLAINT

The Plaintiff, RTC Industries, Inc., (hereinafter “RTC”), for its Complaint against the Defendant, Fasteners for Retail, Inc. (“Defendant”), alleges as follows:

THE PARTIES

1. Plaintiff RTC is an Illinois corporation having its principle place of business at 2800 Golf Road, Rolling Meadows, Illinois 60008. RTC, *inter alia*, makes and sells consumer retail systems, including merchandise display systems. Since its founding in 1951, RTC has consistently advanced the leading edge of retail technology by providing new and innovative solutions to the retail marketplace.

2. Defendant Fasteners for Retail, Inc. is an Ohio corporation with a place of business at 8181 Darrow Road Twinsburg, Ohio 44087. Defendant also has a manufacturing and distribution center at 1600 Birchwood Avenue, Des Plaines, Illinois 60018. Defendant makes,

uses, sells and offers for sale merchandise display systems, including a new system that Defendant refers to as the Power Zone Kwik-Set Self-Facing System.

3. Defendant does business on a regular basis in Illinois and in this District, including making, using, selling and/or offering for sale its new Power Zone Kwik-Set Self-Facing System in Illinois and this District that infringes RTC's rights under the patent asserted in this Complaint.

DEFENDANT'S PAST AND REPEATED INFRINGEMENT

4. This is the seventh time Defendant has infringed RTC's patents.

5. In 2003, RTC filed a patent infringement lawsuit (*RTC Industries, Inc. v. Fasteners for Retail, Inc. et al.*, Civil Action No. 03-cv-3137, Northern District of Illinois) against Defendant for infringing RTC's U.S. Patent No. 4,830,201. Defendant's infringing system at that time was its Power Zone Pre-Set System.

6. In 2005, RTC filed a patent infringement lawsuit (*RTC Industries, Inc. v. Fasteners for Retail, Inc. et al.*, Civil Action No. 05-cv-6940, Northern District of Illinois) against Defendant for infringing RTC's U.S. Patent No. 6,964,235. Defendant's infringing system at that time was its Power Zone Store-Set System.

7. In 2010, RTC filed another patent infringement lawsuit (*RTC Industries, Inc. v. Fasteners for Retail, Inc.*, Civil Action No. 10-cv-2653, Northern District of Illinois) against Defendant because Defendant was infringing RTC's U.S. Patent Nos. 7,661,545 and 7,669,722. Defendant's infringing system was its Invisi-Shield System.

8. Also in 2010, RTC was forced to file yet another patent infringement lawsuit (*RTC Industries, Inc. v. Fasteners for Retail, Inc. et al.*, Civil Action No. 10-cv-2837, Northern District of Illinois) against Defendant because Defendant repeated its infringement of the

previously asserted RTC patents and was also infringing numerous other RTC patents, including U.S. Patent Nos. 7,661,545, 7,669,722, 7,299,934, 7,497,341, and 7,389,886. Defendant's infringing system at that time was its Star Brand Loss Prevention System. Defendant repeated its infringement of RTC's U.S. Patent Nos. 7,661,545 and 7,669,722 – patents that were asserted previously in Civil Action No. 10-cv-2653.

9. In 2017, RTC was again forced to file another patent infringement lawsuit (*RTC Industries, Inc. v. FFR Merchandising, Inc.*, Civil Action No: 17-cv-3595, Northern District of Illinois) against Defendant because Defendant repeated its infringement of U.S. Patent No. 6,964,235 (the exact same patent asserted in the 2005 lawsuit), in addition to U.S. Patent Nos. 9,173,505; 9,149,132; 8,662,319; 8,069,427; 6,041,720; 9,635,957; and, 9,504,321.

10. RTC was once again forced to file yet another patent infringement lawsuit (*RTC Industries, Inc. v. FFR Merchandising, Inc.*, Civil Action No. 1:18-cv-00861, Northern District of Illinois) in 2018 against Defendant for its repeated infringement of RTC Patent Nos. 8,096,427 and 6,041,720.

11. Defendant habitually infringes RTC's patents and has been doing so for over 15 years. Unless enjoined by this Court, Defendant will continue its present willful infringement and will likely repeat its infringement of the RTC patents.

JURISDICTION AND VENUE

12. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and particularly 35 U.S.C. §§ 271 and 281. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). Personal jurisdiction over the Defendant is proper in this Court because Defendant actively and regularly conducts business within the state of Illinois including within many retail stores, and conducts business in this District through its manufacturing and distribution center located in Des Plaines, Illinois.

13. Venue is proper in this District in accordance with 28 U.S.C. §§ 1391(b)-(c) and § 1400(b). Defendant sells and/or offers to sell its infringing Power Zone Kwik-Set Self-Facing System in this District. Defendant has a manufacturing and distribution facility in this District at 1600 Birchwood Avenue, Des Plaines, Illinois 60018. On information and belief, at this manufacturing and distribution facility, Defendant makes, uses, sells and/or offers for sale its infringing Power Zone Kwik-Set Self-Facing System, one example of Defendants' infringement in this District.

RTC'S PATENTED TECHNOLOGY

14. RTC is a Chicago-based industry-leading designer, manufacturer, and seller of consumer retail systems, including merchandise display systems commonly found on shelves at major retailers like Walgreens, CVS, Walmart, and Kroger. Since its founding almost seventy years ago, RTC has pushed the envelope of retail technology, providing new and innovative solutions to retailers. RTC has been awarded and is the owner of many patents relating to and covering its innovative solutions. One of those patents is asserted in this Complaint.

15. Retail and wholesale stores, such as convenience stores, drug stores, grocery stores, discount stores, and the like, require a large amount of shelving both to store products and to display the products to consumers. In displaying the products, it is desirable for the products on the shelves to be situated toward the front of the shelf so that the products are visible and accessible to consumers. To accommodate this placement of products on the shelf, product merchandise display systems can use a pusher system to push the products toward the front of the shelf as the product at the front of the shelf is removed. The pusher systems can be mounted to a front rail and include a pusher paddle and a coiled spring to urge the product forward.

Product dividers can also be used to separate the products into rows of product to better organize and display the different products on the shelf.

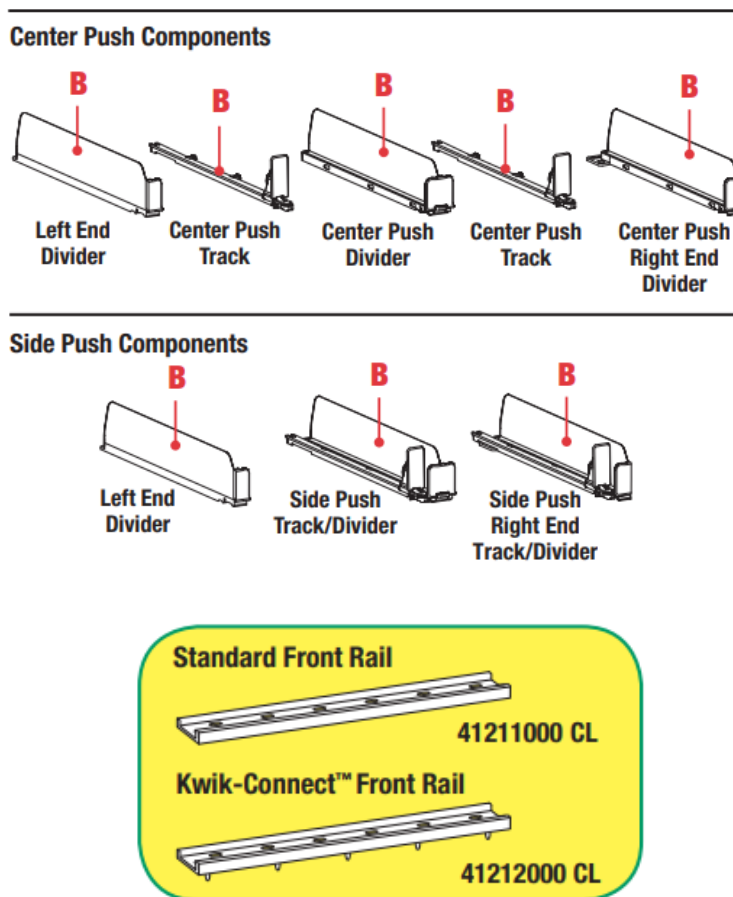
DEFENDANT'S INFRINGING SYSTEM

16. Defendant makes, uses, sells and offers for sale merchandise display systems that repeatedly infringe RTC's patented technologies. Defendant calls its latest infringing system the Power Zone Kwik-Set Self-Facing System. Defendant sells this system to retail stores in direct competition with RTC. The Power Zone Kwik-Set Self-Facing System is illustrated below and also shown in Exhibit A.



17. The Power Zone Kwik-Set Self-Facing System is a merchandise display system that pushes products forward on the shelf and organizes the products into rows. This system includes dividers, pushers and a front rail that are mounted to a shelf. The dividers include a divider wall that extends upwardly from a divider floor on which product can sit. The system includes pusher tracks, paddles and coiled springs. Defendant's system includes what Defendants refer to as a "lock" that both locks the divider in relation to the front rail to inhibit lateral movement of the divider and unlocks the divider in relation to the front rail to allow

lateral movement of the divider. Defendant's system also includes a pusher paddle extender that defines a sleeve to permit the paddle extender to slide over the pusher paddle to create a greater pusher surface area. Components of Defendant's Power Zone Kwik-Set Self-Facing System are depicted in the below figures taken from Defendant's advertisement. (Exhibit A.)

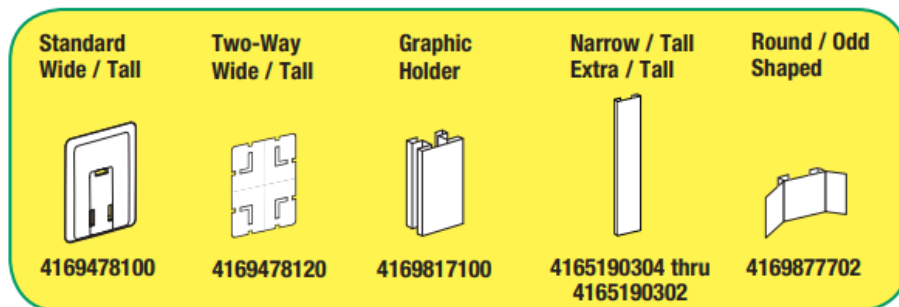


18. Defendant advertises that the “Dividers and [Pusher] Tracks engage and disengage easily [the front rail] for trouble-free installations and quick set changes.” (Exhibit A.) Defendant further advertises that the “Dividers and Tracks can be adjusted by sliding along [a] Front Rail” and that a “Spring-loaded lock tab allows easy adjustment of facing width, even with product in place; tab automatically locks into place, maintaining facing width integrity.”

(*Id.*) A spring-loaded lock that permits the divider to slide along the front rail and to lock the divider to the front rail is shown in Defendant’s advertisement photo depicted below.



19. Defendant also advertises that its system includes an “Integrated clear front product stop [that] provides unobstructed view of products” (as shown in the above image) and that its system can use paddle extenders. Examples of the paddle extenders are depicted below.



COUNT 1 - INFRINGEMENT OF U.S. PATENT NO. 9,895,007

20. RTC realleges and incorporates by reference the allegations stated in paragraphs 1-19 of this Complaint as if fully set forth herein.

21. On February 20, 2018, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,895,007 (“the ‘007 patent”) entitled “Product

Management Display System with Trackless Pusher Mechanism.” RTC is the owner of the ‘007 patent, by virtue of assignment of all rights, title and interest to the ‘007 patent. RTC marks its products in compliance with 35 U.S.C. § 287. A true and correct copy of the ‘007 patent is attached to this Complaint as Exhibit B.

22. Defendant manufactures, uses, offers to sell, sells, and/or imports merchandise display systems, including, but not limited to its Power Zone Kwik-Set Self-Facing System, and/or engages in activities related to merchandise display systems that directly infringe, either literally or through the doctrine of equivalents, and Defendant induces infringement of, one or more claims of the ‘007 patent, including at least claims 1, 12-16, 19-22, and 24-26.

23. Exemplary claim 1 of the ‘007 patent recites:

A merchandise display system comprising:

- a front rail that is mountable to a shelf;
- at least one divider floor configured to engage the front rail and to hold product;
- a front end of the divider floor having a front lock; and
- a pusher mechanism mounted to the divider floor and configured to slide along the divider floor,

wherein the front lock is in front of the pusher mechanism and is configured to be digitally accessible by a user's thumb or finger when product is on the divider floor,

wherein the front lock is shiftable between a first position and a second position,

wherein the front lock moves the divider floor out of engagement with the front rail when in the first position to permit slidable movement of the divider floor relative to the front rail, and

wherein the front lock prevents slidable movement of the divider floor relative to the front rail when in the second position.

24. As shown in Exhibits A and C, the Power Zone Kwik-Set Self-Facing System constitutes a merchandise display system including each and every element of at least claim 1 of the ‘007 patent, either literally or through the doctrine of equivalents, including:

- a front rail that is mountable to a shelf;
- at least one divider floor configured to engage the front rail and to hold product;
- a front end of the divider floor having a front lock; and

a pusher mechanism mounted to the divider floor and configured to slide along the divider floor,

wherein the front lock is in front of the pusher mechanism and is configured to be digitally accessible by a user's thumb or finger when product is on the divider floor,

wherein the front lock is shiftable between a first position and a second position,

wherein the front lock moves the divider floor out of engagement with the front rail when in the first position to permit slidable movement of the divider floor relative to the front rail, and

wherein the front lock prevents slidable movement of the divider floor relative to the front rail when in the second position.

25. A claim chart cross-referencing the elements of claims 1, 12-16, 19-22, and 24-26 with an explanation of infringing aspects of the Power Zone Kwik-Set Self-Facing System is attached as Exhibit C and is incorporated by reference herein.

26. Defendant's acts of infringement have been without express or implied license by RTC, are in violation of RTC's rights, and will continue unless enjoined by this Court.

27. Defendant induced its customers to use the Power Zone Kwik-Set Self-Facing System. Defendant's product manuals, instructional videos and advertisements instruct Defendant's customers on how to install and use the Power Zone Kwik-Set Self-Facing System. On information and belief, Defendant knew that its customers, in using the Power Zone Kwik-Set Self-Facing System, were practicing the claims of the '007 patent. Accordingly, on information and belief, Defendant has induced and is inducing its customers of the Power Zone Kwik-Set Self-Facing System to infringe claims of the '007 patent.

28. On information and belief, Defendant's acts of infringement have been willful. Defendant has continued its infringement with knowledge of the '007 patent and in willful disregard of the '007 patent and the rights created thereunder.

29. RTC has been and will continue to be irreparably harmed by Defendant's infringement of the '007 patent.

JURY DEMAND

30. RTC demands a jury trial on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff RTC respectfully prays that:

A. Pursuant to 35 U.S.C. § 271, this Court enter judgment that Defendant has been and is currently infringing the '007 patent;

B. This Court Order that Defendant and each of its officers, agents, servants, employees, assigns and successors in interest, those persons in active concert of participation with it who receive notice of the injunction, and others acting on its behalf, be preliminarily and permanently enjoined from infringing the '007 patent, including through use of the infringing products as well as making, selling or offering for sale the infringing products or engaging in infringing activities;

C. This Court Order that Defendant notify purchasers and users of the infringing systems and activities that the systems and activities infringe the '007 patent, and that Defendant recall all infringing products sold or otherwise distributed, and that the Defendant remove the infringing products from all stores where those products have been installed;

D. Defendant be directed to provide an accounting to determine the damages suffered by RTC as a result of Defendant's infringing conduct, such damages including, but not limited to, RTC's lost profits on sales or offers for sale of the infringing products, and in no event less than a reasonable royalty;

E. Defendant be directed to pay RTC the amount of damages that RTC has sustained as a result of Defendant's acts of patent infringement, and that such damages be trebled under 35 U.S.C. § 284 as a result of any willful infringement of the '007 patent;

F. This be declared an exceptional case under 35 U.S.C. § 285, and RTC be awarded its attorneys' fees;

G. Defendant be directed to pay RTC an award of pre-judgment interest, post-judgment interest, and costs of the suit; and

H. RTC be granted such other further relief as the Court may deem proper and just.

Respectfully submitted,

Dated: April 18, 2018

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