

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF ILLINOIS**

PERMANENT POST SYSTEMS, LLC, a	)	
Washington limited liability company,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 3:18-cv-03236
	)	
SWS INNOVATIONS, LLC, an Illinois	)	
limited liability company; and WILDWOOD	)	
IVY, INC., d/b/a Strong Way Systems, an	)	
Illinois corporation.	)	
	)	
Defendants.	)	<b>JURY TRIAL DEMANDED.</b>

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff PERMANENT POST SYSTEMS, LLC (“Permanent Post” or “Plaintiff”) alleges for its Complaint for patent infringement against Defendants, SWS INNOVATIONS, LLC (“SWS”) and WILDWOOD IVY, INC., d/b/a Strong Way Systems (“Strong Way”) (collectively “Defendants”), on personal knowledge as to its own actions and on information and belief as to the actions of others, as follows:

**I. JURISDICTION AND VENUE**

1. This civil action for patent infringement arises under the patent laws of the United States, 35 U.S.C. § 100 et seq., including pursuant to 35 U.S.C. § 271. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. This Court has personal jurisdiction over SWS. On information and belief, SWS has systematic and continuous contact with this forum at least because it conducts

substantial business in, and is headquartered in, Illinois and in this District. On information and belief, SWS's principal office is at 130 Ivy Glen Dr., Chatham, IL 62629, which is located within this District.

3. This Court has personal jurisdiction over Strong Way. On information and belief, Strong Way has systematic and continuous contact with this forum at least because it conducts substantial business in, and is headquartered in, Illinois and in this District. On information and belief, Strong Way's principal office is at 1551 Industrial Drive Minonk, IL 61760.

4. Venue is proper in the Central District of Illinois under 28 U.S.C. §§ 1391 and 1400(b). Venue is proper in the Central District of Illinois because both SWS and Strong Way reside in this District. SWS is an Illinois limited liability company with its principal office at 130 Ivy Glen Dr., Chatham, IL 62629, and Strong Way is an Illinois corporation with its principal office at 1551 Industrial Drive, Minonk, IL 61760.

5. Venue is also proper in the Central District of Illinois because, on information and belief, Defendants make, use, sell, offer to sell, and/or import the Accused Product (identified below) within the Central District of Illinois and both have a regular and established place of business within the Central District of Illinois. SWS's principal office is at 130 Ivy Glen Dr., Chatham, IL 62629, and SWS maintains a post office box at PO Box 223, Chatham, IL 62629. Chatham, IL is within the Central District of Illinois. Strong Way's principal office is at 1551 Industrial Drive Minonk, IL 61760.

Minonk, IL is within the Central District of Illinois.

## **II. THE PARTIES**

6. Permanent Post is a limited liability company organized and existing under the laws of the State of Washington, with a principal place of business at 18603 N. Yale Rd., Colbert, Washington 99005.

7. On information and belief, SWS is an Illinois limited liability company with a principal place of business at 130 Ivy Glen Drive, Chatham, Illinois 62629. On information and belief, SWS may be served with process by serving its registered agent Mr. Michael M. Durr, 1119 South Sixth Street, Springfield, Illinois 62703.

8. On information and belief, Strong Way is an Illinois corporation with a principal place of business at 1551 Industrial Drive Minonk, IL 61760. On information and belief, Strong Way may be served with process by serving its registered agent Mr. Brett A. Hage, 3201 S. Meadowbrook Rd., Suite A, Springfield, IL 62711.

9. This is a patent infringement action by Permanent Post to end Defendants' unauthorized, willful, and infringing manufacture, use, sale, offering to sell, and/or importing into the United States products and/or components that incorporate Permanent Post's patented inventions, and to end Defendants' active inducement of infringement by others in the United States of Permanent Post's patented inventions.

## **III. BACKGROUND AND FACTS**

10. Permanent Post is the owner of all rights and title in and to U.S. Patent

Nos. 9,366,052 (“the ‘052 Patent”) and 9,677,297 (“the ‘297 Patent”) (collectively, the “Asserted Patents”).

11. On June 14, 2016, the United States Patent and Trademark Office duly and legally issued the ‘052 Patent, entitled “Structural Support Apparatus and Method of Installation Thereof.” A copy of the ‘052 Patent is attached as Exhibit 1.

12. Permanent Post owns all substantial right, title, and interest in the ‘052 Patent, and holds the right to sue and recover damages for infringement thereof, including past infringement.

13. On June 13, 2017, the United States Patent and Trademark Office duly and legally issued the ‘297 Patent, entitled “Method of Installation of a Structural Support Apparatus.” A copy of the ‘297 Patent is attached as Exhibit 2.

14. Permanent Post owns all substantial right, title, and interest in the ‘297 Patent, and holds the right to sue and recover damages for infringement thereof, including past infringement.

15. No later than June 13, 2018, Defendants were on notice of the Asserted Patents and their infringement of the Asserted Patents. On June 13, 2018, counsel for Permanent Post contacted the President of SWS, Philip Grussenmeyer, notifying SWS of the Asserted Patents and that at least SWS’s using, making, selling, and offering to sell the “Strong Way Column” product infringed the Asserted Patents. Permanent Post sent a follow-up communication on August 22, 2018, again warning SWS that it’s using,

making, selling, and offering to sell the “Strong Way Column” product infringed the Asserted Patents and that Permanent Post would file this Complaint, if SWS did not cease its activities or engage in meaningful licensing discussions with Permanent Post. On information and belief, Mr. Grussenmeyer is also the President of Strong Way.

16. Despite Permanent Post’s attempts to engage Defendants to find a business resolution for Defendants’ infringement, Defendants have not ceased using, making, selling, or offering to sell the Strong Way Column.

**IV. FIRST CLAIM FOR RELIEF:**

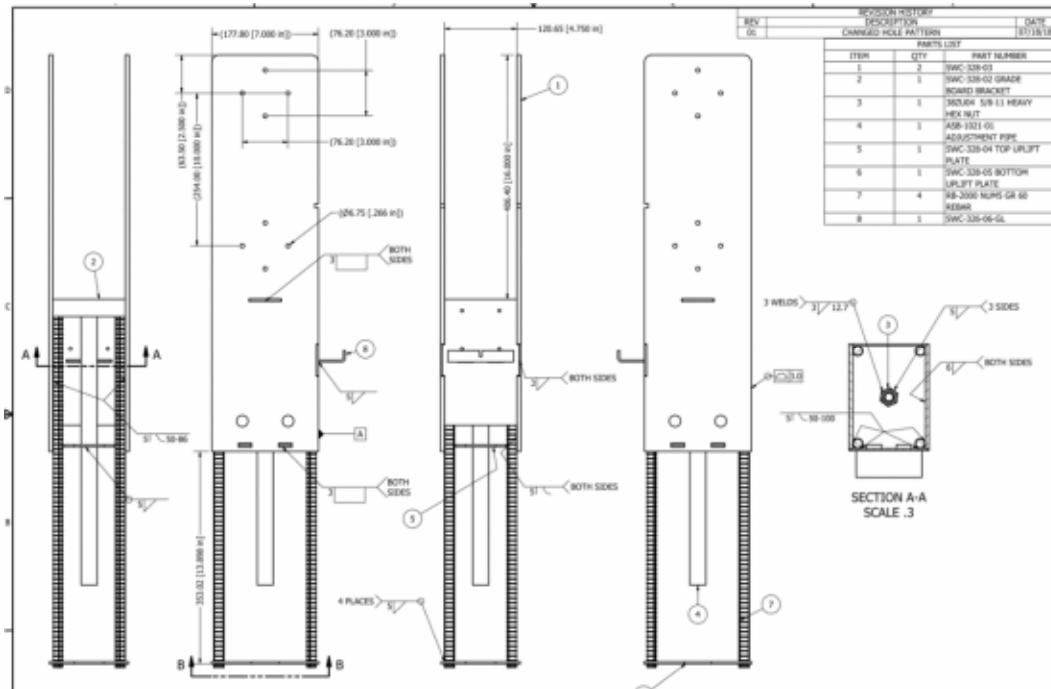
**DEFENDANTS’ INFRINGEMENT OF U.S. PAT. NO. 9,366,052**

17. Permanent Post incorporates and realleges paragraphs 1-16 above as if fully set forth herein.

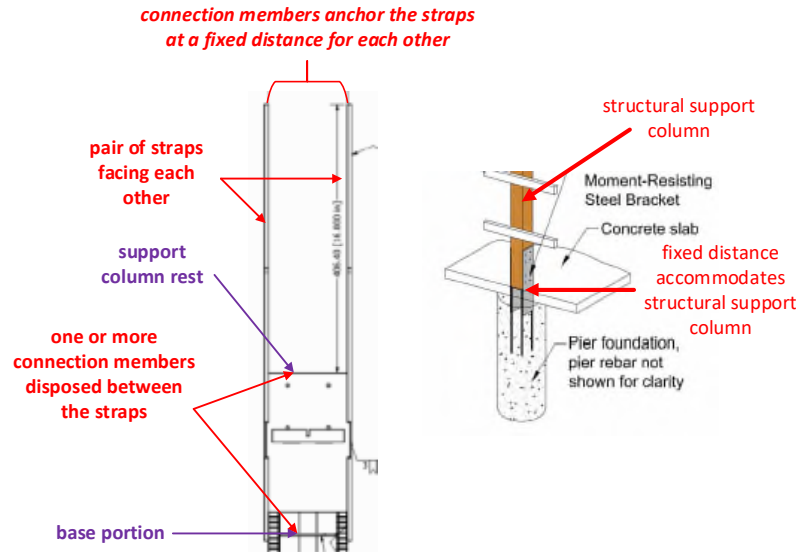
18. On information and belief, Defendants have infringed and continue to infringe one or more claims of the ’052 Patent, including but not limited to claim 8, under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, offering to sell, selling, and/or importing into the United States without authority foundation systems for post frame buildings, including but not limited to the “Strong Way Column” (the “Accused Products”).

19. On July 28, 2018, after Permanent Post notified Defendants of their infringement of the Asserted Patents, Strong Way posted an updated schematic of the Strong Way Column to its Facebook page. The schematic is attached to this complaint

as Exhibit 3 and reproduced below.

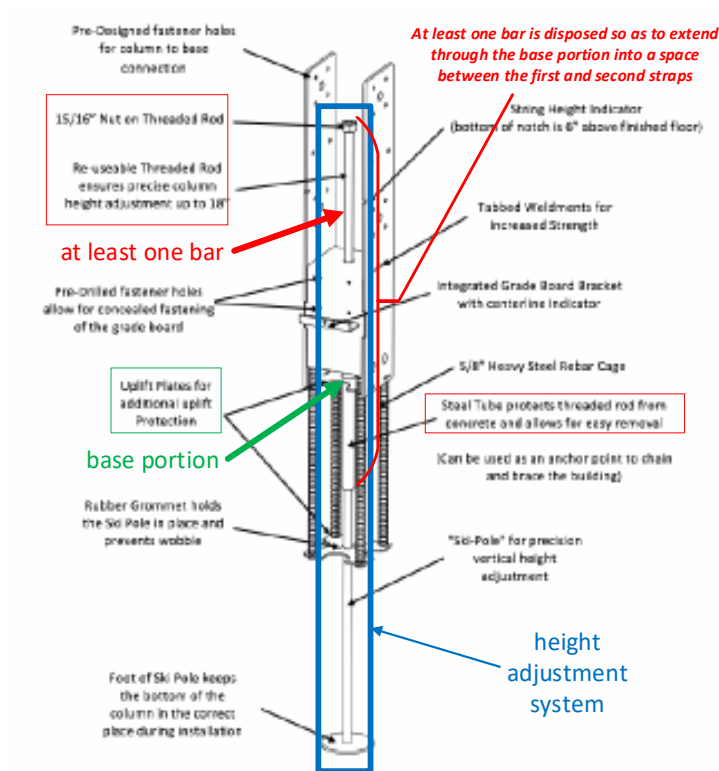


20. As shown in the annotated diagrams from Exhibit 3 and page 2 of an Engineering Report related to the Strong Way Column (attached as Exhibit 5 and available at: <https://www.strongwaysystems.com/images/Brochures/Strong-Way-Systems---Report.pdf>) reproduced below this paragraph, the Accused Products are “apparatus[es], comprising: a pair of straps facing each other; one or more connection members disposed between the straps and anchoring the straps at a fixed distance from each other to accommodate a structural support column there between, the one or more connection members including a support column rest and a base portion,” as recited in claim 8 of the '052 Patent.



21. The Accused Products also comprise “a height adjustment system including at least one bar disposed so as to extend through the base portion into a space between the straps and between the support column rest and the base portion, and a lift assist component that engages with the bar such that, in an orientation where the straps extend vertically with respect to a horizontal plane, a distance between the horizontal plane and a top of the support column rest is adjustable via engagement between the lift assist component and the bar,” as recited in claim 8 of the ‘052 Patent. The Strong Way Column Installation Manual (attached as Exhibit 4) describes that the Strong Way Column includes a “Threaded Rod” that “ensures precise column height adjustment” (see Exhibit 4 at 3), *i.e.*, a height adjustment system having at least one bar. Exhibit 4 also describes that a “Steel Tube protects the threaded rod from concrete.” As shown in the annotated detail diagram below this paragraph, taken from Exhibit 4 at 3, the Steel Tube extends through the Top Uplift Plate (*i.e.*, the base portion) into a space between the

straps and between the support column rest and the base portion.



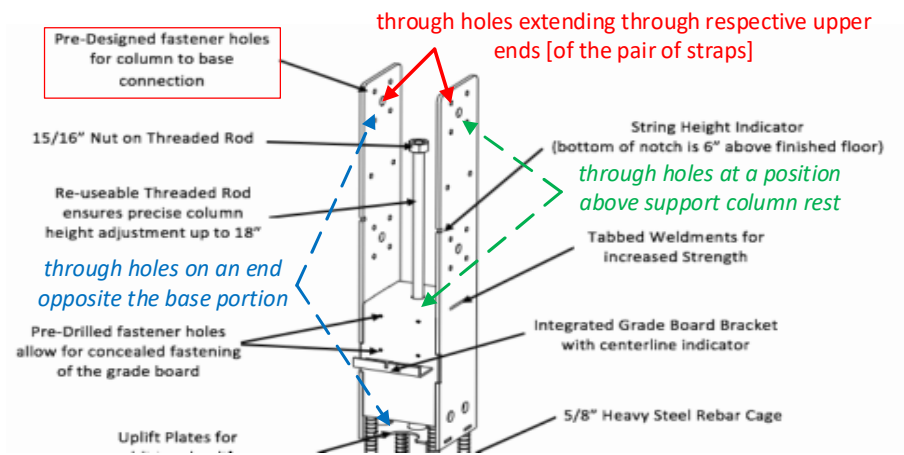
22. The “height adjustment system” of the Accused Products also includes “lift assist component that engages with the bar such that, in an orientation where the straps extend vertically with respect to a horizontal plane, a distance between the horizontal plane and a top of the support column rest is adjustable via engagement between the lift assist component and the bar,” as recited in claim 8 of the ‘052 Patent. For example, the “Threaded Rod” of the Strong Way Column includes a threaded surface shaped around the rod (*i.e.* a “lift assist component”).

23. The threaded surface (*i.e.*, the lift assist component) and the Threaded Rod (*i.e.*, the at least one bar) work together to adjust the height of the Strong Way Column

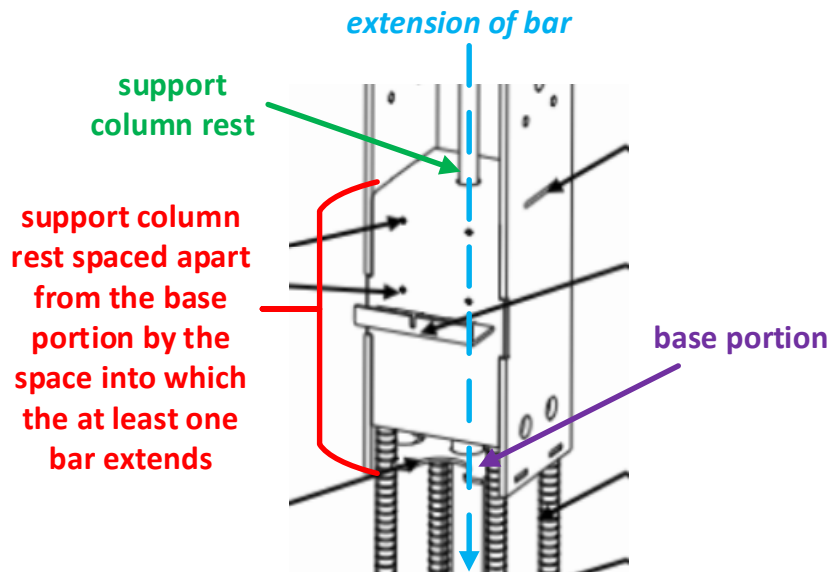


during installation. As Phil Grussenmeyer, President for the Defendants, explains in a YouTube video posted by him (available at <https://www.youtube.com/watch?v=PgVeIf5v4bc&>), the Strong Way Column is “height-adjustable, it has an adjustable-height rod, that makes this thing [the Strong Way column] go up and down ... the adjustable-height rod adjusts it vertically and locks [the Strong Way column] in vertically.” Mr. Grussenmeyer also demonstrates in the video that when the Threaded Rod (*i.e.*, the at least one bar) is turned using an “impact gun,” the height of the Strong Way Column adjusts (*i.e.*, in an orientation where the first and second straps extend vertically with respect to a horizontal plane, a distance between the horizontal plane and the respective upper ends of the first and second straps is adjustable), showing that the height of the Strong Way Column is adjustable via engagement between the threaded surface (*i.e.*, the lift assist component) and the Threaded Rod (*i.e.*, the bar).

24. As shown in the annotated, detail image below this paragraph taken from Exhibit 4 at 3, in the Accused Products, “the pair of straps include through holes extending through respective upper ends thereof at a position above the support column rest and on an end opposite the base portion,” as recited in claim 8 of the ‘052 Patent.



25. As shown in the annotated, detail image below this paragraph taken from Exhibit 4 at 3, in the Accused Products, "the support column rest is spaced apart from the base portion by the space between the straps into which the at least one bar extends," as recited in claim 8 of the '053 Patent.



26. On information and belief, Defendants have induced and continues to induce infringement of one or more claims of the '052 patent, including but not limited to claim 8, under 35 U.S.C. § 271(b) by encouraging third parties such as users,

customers, installers, participating builders, distributors, wholesalers, retailers, and/or affiliates to make, use, offer to sell, sell, and/or import into the United States without authorization, the Accused Products. The making, using, offering to sell, selling, and/or importing into the United States constitutes direct infringement, literally or under the doctrine of equivalents, of one or more claims of the '052 patent by such third parties. Defendants' acts of inducement include providing the Accused Products to third parties and intending them to use the Accused Products. For example, on July 28, 2018, a post on the Strong Way Facebook page includes the following text: "Being on site and working with our participating builders is how we continue to improve and create products. We never stop improving and innovating." The accompanying photos for the July 28, 2018 Facebook post show the Strong Way Column. By being on site and working with participating builders to use and install the Accused Products, Defendants induce those participating builders to infringe the '052 Patent. In addition, Strong Way provides instruction manuals (e.g., Exhibit 4) encouraging use of the Accused Products, which also induces third parties to infringe the '052 Patent.

27. Defendants proceeded in this manner despite knowledge of the '052 Patent and their knowledge that specific actions they actively induced and continue to actively induce on the part of third parties constitute infringement of the '052 Patent. Defendants had knowledge of the '052 Patent no later than as described in paragraph 15. At the very least, because Defendants have been and remain on notice of the '052

Patent and their accused infringement, they have been and remain willfully blind regarding the infringement they have induced, and continue to induce.

28. Permanent Post has suffered, and continues to suffer, damages as a result of Defendants' infringement of the '052 Patent.

29. Defendants' infringement of the '052 Patent has been, and continues to be, willful, deliberate, and in disregard of Permanent Post's patent rights. Defendants had knowledge of the '052 Patent and their infringement of the '052 Patent no later than as described in paragraph 15 and proceeded to infringe the '052 Patent with full knowledge of it and its applicability to Defendants' products. Defendants' intentional, knowing, egregious, culpable, willful, wanton, malicious, bad faith, deliberate, consciously wrongful, and/or flagrant infringement entitles Permanent Post to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**V. SECOND CLAIM FOR RELIEF:**

**DEFENDANTS' INFRINGEMENT OF U.S. PAT. NO. 9,677,297**

30. Permanent Post incorporates and realleges paragraphs 1-29 above as if fully set forth herein.

31. On information and belief, Defendants have infringed and continues to infringe one or more claims of the '297 Patent, including but not limited to claim 1, under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using,

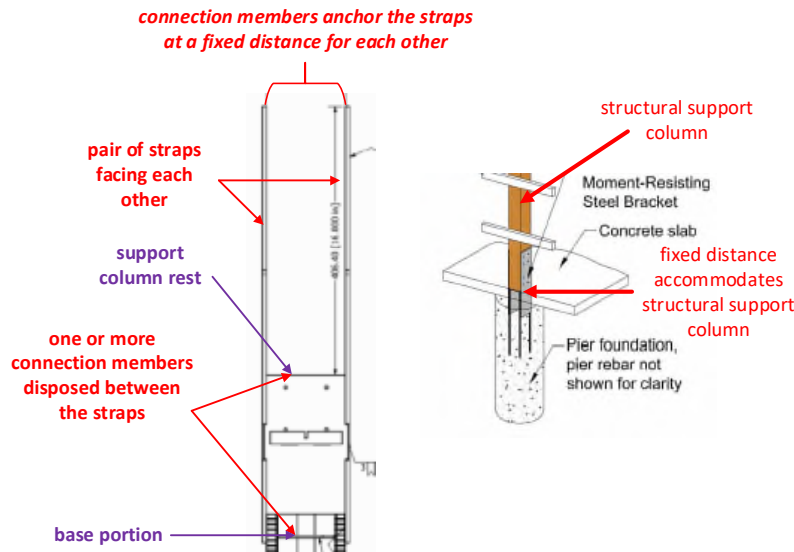
offering to sell, selling, and/or importing into the United States without authority foundation systems for post frame buildings, including but not limited to, the “Strong Way Column” (the “Accused Products”).

32. For example, Defendants’ YouTube videos (e.g., <https://www.youtube.com/watch?v=PgVeIf5v4bc&>) and Defendants’ installation manuals show a “method of installing a support member, comprising: placing the support member on a ground surface,” as recited in claim 1 of the ’297 Patent. For example, the photos below from Exhibit 4 at 10, show the Strong Way Column (“support member”) being placed on a ground surface:



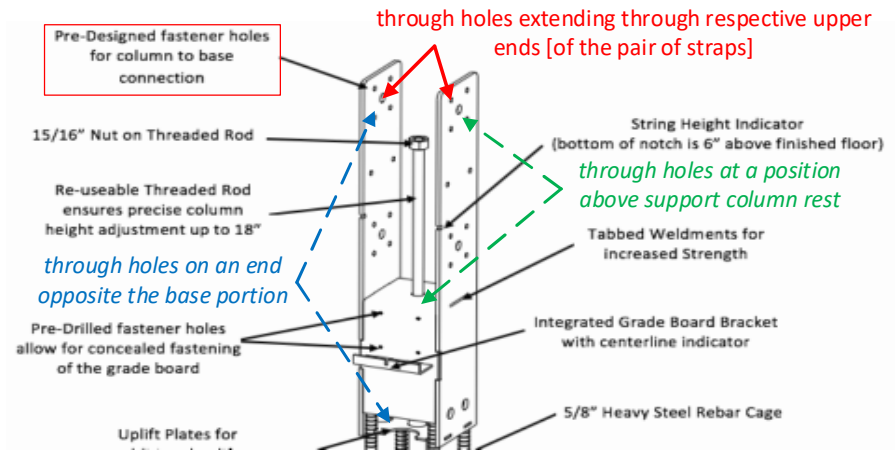
33. As shown in the annotated diagrams from Exhibit 3 and Exhibit 5 reproduced below this paragraph, in the Accused Products “the support member includ[es] a pair of straps facing each other, one or more connection members disposed between the straps and anchoring the straps at a fixed distance from each other to accommodate a structural support column there between, the one or more connection

members including a support column rest and a base portion” as recited in claim 1 of the '297 Patent.

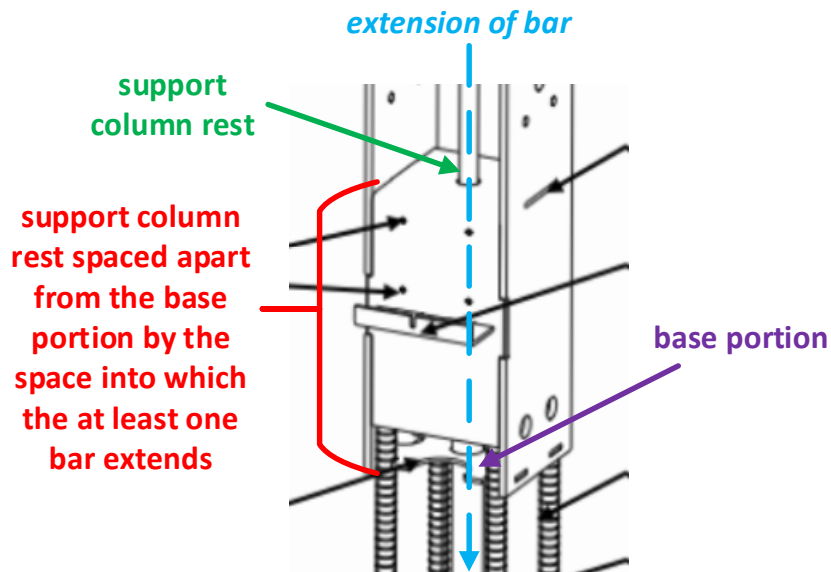


34. As described above in paragraphs 21-23, the Accused Products include “a height adjustment system including at least one bar disposed adjacent to at least one of the straps, and a lift assist component that engages with the bar such that, in an orientation where the straps extend vertically with respect to a horizontal plane, a distance between the horizontal plane and a top of the support column rest is adjustable via engagement between the lift assist component and the bar,” as recited in claim 1 of the '297 patent.

35. As shown in the annotated, detail image below this paragraph taken from Exhibit 4 at 3, in the Accused Products, “the pair of straps include through holes extending through respective upper ends thereof at a position above the support column rest and on an end opposite the base portion,” as recited in claim 1 of the '297 Patent.



36. As shown in the annotated, detail image below this paragraph taken from Exhibit 4 at 3, in the Accused Products, “the support column rest is spaced apart from the base portion by the space between the straps into which the at least one bar extends,” as recited in claim 1 of the '297 Patent.



37. As described above in paragraphs 21-23, in the Accused Products users or installers of the Accused Products “adjust[] a height of the support member by engaging the lift assist component with the bar,” as recited in claim 1 of the '297 Patent.

38. On information and belief, Defendants have induced and continue to induce infringement of one or more claims of the '297 patent, including but not limited to claim 1, under 35 U.S.C. § 271(b) by encouraging third parties such as users, customers, installers, participating builders, distributors, wholesalers, retailers, and/or affiliates to make, use, offer to sell, sell, and/or import into the United States without authorization, the Accused Products. The making, using, offering to sell, selling, and/or importing into the United States constitutes direct infringement, literally or under the doctrine of equivalents, of one or more claims of the '297 patent by such third parties. Defendants' acts of inducement include providing the Accused Products to third parties and intending them to use the Accused Products. For example, on July 28, 2018, a post on the Strong Way Facebook page includes the following text: "Being on site and working with our participating builders is how we continue to improve and create products. We never stop improving and innovating." The accompanying photos for the July 28, 2018 Facebook post show the Strong Way Column. By being on site and working with participating builders to use and install the Accused Products, Defendants induce those participating builders to infringe the '297 Patent. In addition, Defendants provide instruction manuals (e.g., Exhibit 4) encouraging use of the Accused Products, which also induces third parties to infringe the '297 Patent.

39. Defendants proceeded in this manner despite knowledge of the '297 Patent and their knowledge that specific actions it actively induced and continue to



actively induce on the part of third parties constitute infringement of the '297 Patent. Defendants had knowledge of the '297 Patent no later than as described in paragraph 15. At the very least, because Defendants have been and remain on notice of the '297 Patent and its accused infringement, they have been and remain willfully blind regarding the infringement they have induced, and continue to induce.

40. Permanent Post has suffered, and continues to suffer, damages as a result of Defendants' infringement of the '297 Patent.

41. Defendants' infringement of the '297 Patent has been, and continues to be, willful, deliberate, and in disregard of Permanent Post's patent rights. Defendants had knowledge of the '297 Patent and their infringement of the '297 Patent no later than as described in paragraph 15 and proceeded to infringe the '297 Patent with full knowledge of it and its applicability to Defendants' products. Defendants' intentional, knowing, egregious, culpable, willful, wanton, malicious, bad faith, deliberate, consciously wrongful, and/or flagrant infringement entitles Permanent Post to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**JURY DEMAND**

Permanent Post demands a trial by jury.

**PRAYER FOR RELIEF**

Permanent Post respectfully prays for relief as follows:

- A. a judgment that Defendants have infringed and continue to infringe one or more claims of the Asserted Patents;
- B. a judgment that Defendants have induced infringement and continue to induce infringement of one or more claims of the Asserted Patents;
- C. a judgment that Defendants have willfully infringed one or more claims of the Asserted Patents;
- D. a permanent injunction issued against Defendants and its agents, officers, directors, employees, attorneys, successors, and assigns, all parent and subsidiary entities, and all those acting for or on the behalf of Defendants, or in active concert, participation, or combination with them, including customers and distributors, prohibiting Defendants from:
  - a. continuing acts of infringement of the Asserted Patents,
  - b. making, using, selling, and/or importing infringing products, to include any colorable imitation thereof, and
  - c. otherwise infringing the Asserted Patents;
- E. judgment awarding Plaintiff all damages adequate to compensate for Defendants' infringement, and in no event less than a reasonable royalty for Defendants' infringement, including all pre-judgment and post-judgment interest at the maximum rate allowed by law;

- F. a judgment awarding Plaintiff treble damages pursuant to 35 U.S.C. § 284 as a result of Defendants' willful conduct;
- G. a judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding Plaintiff its reasonable Attorneys' Fees and Taxable Costs incurred in connection with this action, pursuant to 35 U.S.C. § 285; and
- H. for such additional and further relief in law and equity, as the Court may deem just and proper.

DATED this 17<sup>th</sup> day of September, 2018.

Respectfully submitted,  
PERMANENT POST SYSTEMS, LLC,

By: /s/ Thomas H. Wilson  
One of Its Attorneys

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