

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SUDENGA INDUSTRIES,
INCORPORATED,

Plaintiff,

v.

Case No. 18-2498-DDC

GLOBAL INDUSTRIES, INC.,

Defendant.

JURY TRIAL DEMANDED

THIRD AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Sudenga Industries Incorporated (“Sudenga”) files this complaint against Defendant Global Industries, Inc. (“Global Ind.”) and states and alleges as follows:

THE PARTIES

1. Plaintiff Sudenga is an Iowa corporation with a principal place of business located at 2002 Kingbird Ave., George, Iowa, 51237.
2. On information and belief, Defendant Global Ind. is a Nebraska corporation with a principal place of business at 2928 E HWY 30, Grand Island, Nebraska, 68801.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action for infringement of a United States patent arises under the Patent Laws of the United States, 35 U.S.C. §§ 271 and 281-285.

4. On information and belief, this Court has personal jurisdiction over Defendant Global Ind. for at least the reasons that Global Ind. transacts business in this judicial district, has purposefully availed itself of the privileges of doing business in this judicial district, and has committed acts of patent infringement throughout the United States, including this judicial district, as alleged in this Complaint.

5. On information and belief, Global Ind. owns and/or operates a regular and established place of business in this judicial district at 514 W. Crawford Street, Clay Center, Kansas 67432.

6. On information and belief, venue is proper in the District of Kansas pursuant to 28 U.S.C. §§ 1391(c)(3) and 1400(b), because, among other reasons, Global Industries has a regular and established place of business in this judicial district and has committed and continues to commit acts of infringement by at least selling and/or offering for sale infringing products in this judicial district.

FACTUAL BACKGROUND

7. Alan G. Hoogestraat is the sole inventor of U.S. Patent Nos. 8,616,823 (“the ‘823 Patent”), 9,206,001 (“the ‘001 Patent”), and 10,017,338 (“the ‘338 Patent”) (collectively, the “Patents-in-Suit”), each entitled “Bin Sweep Collector Ring Assembly.”

8. The ‘823 Patent was issued by the United States Patent and Trademark Office on December 31, 2013 from United States Patent Application Serial No. 13/030,836. A Certificate of Correction for the ‘823 Patent was issued by the United States Patent and Trademark Office on July 29, 2014. A true and correct copy of the ‘823 Patent, with the Certificate of Correction, is attached as Exhibit A.

9. The '001 Patent was issued by the United States Patent and Trademark Office on December 8, 2015 from United States Patent Application Serial No. 14/600,186. The '001 Patent is a continuation of the application that issued as U.S. Patent No. 9,206,000, which is a continuation of the application that issued as the '823 Patent. A true and correct copy of the '001 Patent is attached as Exhibit B.

10. The '338 Patent was issued by the United States Patent and Trademark Office on July 10, 2018 from United States Patent Application Serial No. 14/961,468. The '338 Patent is a continuation of the application that issued as the '001 Patent. A true and correct copy of the '338 Patent is attached as Exhibit C.

11. Sudenga is the owner of each of the Patents-in-Suit by assignment.

12. The inventions of the Patents-in-Suit generally relate to bin sweep apparatuses having a collector ring. Bin sweeps permit the moving and clearing of grain and other materials from silos, grain bins and other storage units.

13. The collector ring inventions disclosed in the Patents-in-Suit facilitate essentially "zero entry" operation of bin sweeps, which reduces or eliminates the need to expose personnel to conditions inside a bin, silo or similar storage unit under normal operating conditions.

14. Sudenga sells bin sweep systems under the MAXTM brand name that embody inventions claimed in the Patents-in-Suit.



Marketing image of MAX™ D Series Grain Bin Sweep system, from <https://sudenga.com/our-products/max-commercial-line/max-grain-bin-sweeps/commercial-sweeps-d-series>.

15. Sudenga, through its General Manager, contacted Hutchinson/Mayrath, a division of Global Ind., via letter on January 28, 2016, providing notice of infringement of three of the Patents-in-Suit. Communications between those companies regarding the Patents-in-Suit continued through 2017.

16. On April 12, 2017, Mr. Ryan Kipp, VP, Legal and General Counsel for Ag Growth International Inc. (“AGI”) contacted counsel for Sudenga to indicate that AGI recently completed a share acquisition of Global Ind., including its Hutchinson/Mayrath division, and that AGI assumed its existing liabilities, including for the alleged infringement of the Patents-in-Suit. A true and correct copy of Mr. Kipp’s April 12, 2017 e-mail is attached as Exhibit D.

17. Communications between Sudenga and AGI regarding infringement and possible licensing of the Patents-in-Suit continued following the Global Ind. share acquisition by AGI.

18. After initially promising a response by May 20, 2017, AGI did not substantively respond until September 11, 2017. The September 11, 2017 letter from AGI also indicated that external patent counsel had not been retained.

19. Sudenga provided AGI with a proposed written license agreement for the Patents-in-Suit on September 25, 2017.

20. On November 3, 2017 Sudenga inquired about the status of AGI's review. On November 15, 2017, Mr. Ryan Kipp of AGI indicated that a response would be provided shortly.

21. On January 8 and 15, 2018, Sudenga again inquired about the status of AGI's review, requesting that AGI commit to responding by February 9, 2018.

22. On January 15, 2018, Mr. Ryan Kipp of AGI committed to respond by February 9, 2018. AGI did not respond by February 9, 2018.

23. On February 14, 2018, Mr. Ryan Kipp indicated that he had communicated with AGI's executive team and AGI had decided to retain external patent counsel.

24. On information and belief, neither AGI nor Global Ind. retained a U.S. attorney to analyze the infringement allegations under the Patents-in-Suit prior to February of 2018.

25. On May 22, 2018, Mr. Matthew Cutler, outside counsel for AGI indicated that Global Ind. was the entity that makes and sells the products accused of infringement in this Complaint, and that AGI had not assumed liability for patent infringement, contrary to Mr. Kipp's earlier statement.

26. Global Ind. is a wholly owned subsidiary of AGI.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,616,823

27. Sudenga repeats and realleges all allegations set forth above in paragraphs 1-27 as if they were stated in full and incorporated herein.

28. Sudenga owns and holds all legal title, interest, and rights in the ‘823 Patent.

29. Global Ind. and its division Hutchinson/Mayrath did not and does not have authority or permission to make, use, offer to sell, sell, or import into the United States products that incorporate the subject matter claimed in the ‘823 Patent.

30. Global Ind. was placed on actual notice of the ‘823 patent at least by the time of receipt of the January 28, 2016 letter sent by Sudenga, as well as through subsequent communications between Sudenga, Global Ind., and AGI, and by the filing and service of the Complaint in this action.

31. Global Ind. had constructive notice of the ‘823 Patent because Sudenga has marked patented articles.

32. On information and belief, Global Ind. has, in violation of 35 U.S.C. § 271, directly and/or indirectly infringed and continue to infringe one or more claims of the ‘823 Patent, including at least claim 1, either literally or under the doctrine of equivalents, by making using, selling, offering for sale, or importing infringing products. Infringing products include at least the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, which is also referred to as the “NexGen 3000 Klean Sweep Auger” bin sweep system.

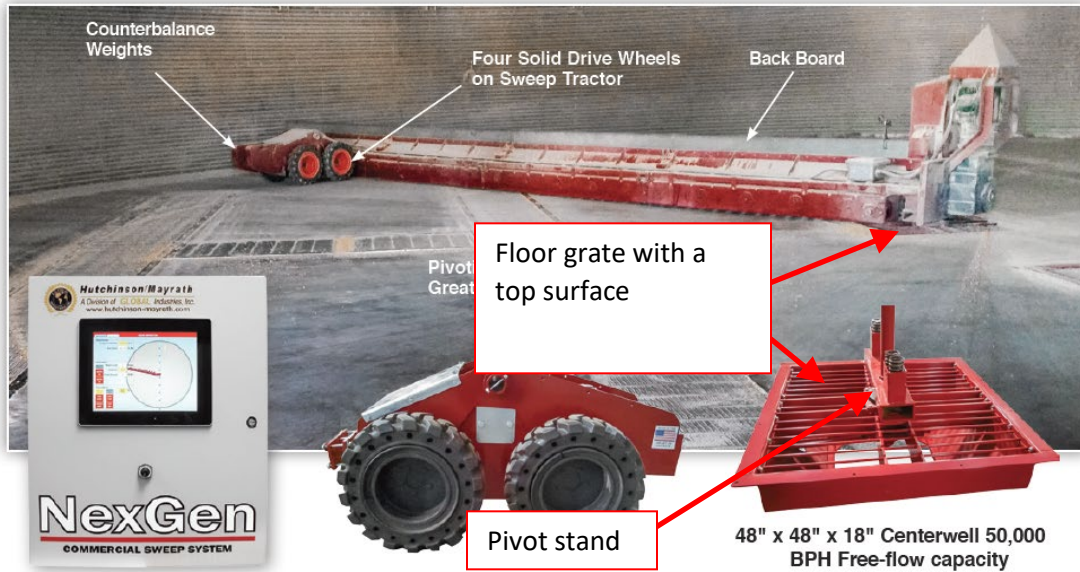


“Hutchinson Bin Unloading Systems” Brochure (2016), page 10, available at <http://www.hutchinson-mayrath.com/wp-content/uploads/2016/06/Bin-Unloading-Systems.pdf>.

33. On information and belief, Global Ind.’s bin sweep systems, including the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, provide an apparatus for attachment to a floor grate, and the apparatus includes a pivot stand attached to a top surface of the floor grate, with the pivot stand defining a vertical pivot axis.

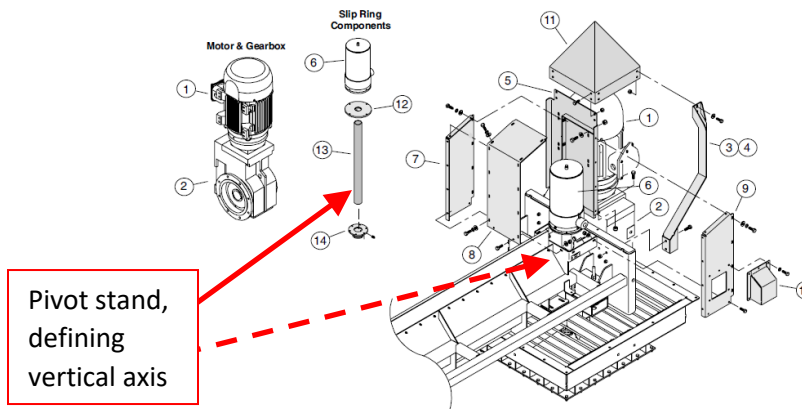
NEXGEN 3000 SERIES COMMERCIAL SWEEP

A Key Component to Zero Bin Entry Operation



“Hutchinson Bin Unloading Systems” Brochure (2016), page 10, available at <http://www.hutchinson-mayrath.com/wp-content/uploads/2016/06/Bin-Unloading-Systems.pdf>. (annotated).

DRIVE ASSEMBLY COMPONENTS



Hutchinson/Mayrath, “NexGen 3000 Klean Sweep Auger: Owner’s & Operator’s Manual” Publication No. 1044890 (effective August 15, 2014), page P-3.

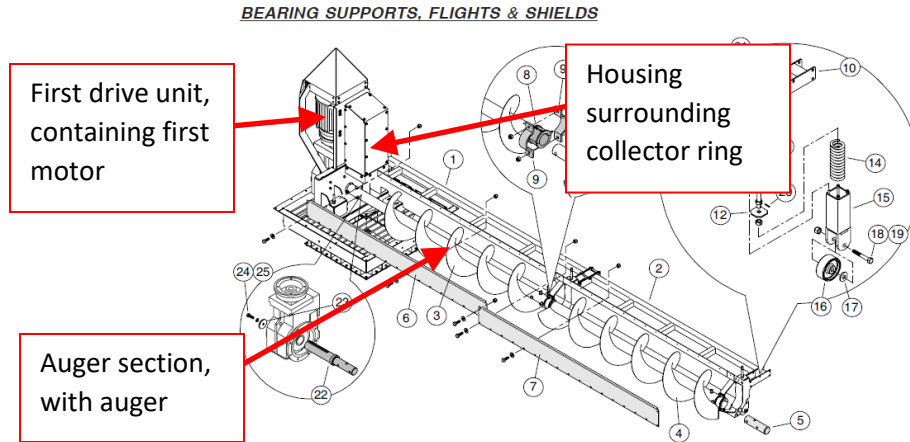
(annotated).

34. On information and belief, Global Ind.’s bin sweep systems, including the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, provide a collector ring having a first stationary portion and a second rotatable portion, wherein the stationary portion is attached to the pivot stand above the floor grate.

| NEXGEN COMMERCIAL SWEEP SPECIFICATIONS | | | | | | |
|---|-------------------------------------|--|---|---|---|--|
| NEXGEN Model | Capacities | Flighting | Drive | Tractor | Center Well Option | Control Box Option |
| 3000 | 7,500 – 15,000 BPH (203-406 TPH) | 18" (45.7cm) O.D. x 3/8" (10 mm) thick | 10:1 Gear Reducer drive up to 50 HP (40 kW) | Unique 4 wheel drive tractor design, one tractor on bin diameters up to 88' and two tractors in diameters 90' to 150' | 48" x 48" (122 cm x 122 cm) opening with above floor Electric Slip Ring | Control Box allows automatic control for starting and stopping the tractor determined by the amount of amps being drawn by the motor operating the sweep flight. Also features a tractor reverse option as well as a main "on-off" switch. Includes touch screen controls to allow flight speed control, will display current sweep position |

“Hutchinson Bin Unloading Systems” Brochure (2016), page 10, available at <http://www.hutchinson-mayrath.com/wp-content/uploads/2016/06/Bin-Unloading-Systems.pdf>. (annotated).

35. On information and belief, Global Ind.’s bin sweep systems, including the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, provide a housing surrounding the collector ring, wherein the housing and second rotatable portion of the collector ring rotate together about the pivot axis, wherein the housing is attached to a drive unit on one side and to an auger section on another side, the drive unit containing a motor for driving an auger of the auger section.



Hutchinson/Mayrath, “NexGen 3000 Klean Sweep Auger: Owner’s & Operator’s Manual” Publication No. 1044890 (effective August 15, 2014), page P-2.

(annotated).

36. On information and belief, Global Ind.’s infringement of the ‘823 Patent was and is willful because Global Ind. had actual and constructive notice of the ‘823 Patent, and Global Ind. knew that its activities infringe the ‘823 Patent, in objective and subjective reckless disregard of the ‘823 Patent and the rights conferred by the ‘823 Patent to Sudenga.

37. The ‘823 Patent is entitled to a presumption of validity pursuant to 35 U.S.C. § 282(a).

38. Sudenga has been injured and suffered significant financial damage as a direct and proximate result of Global Ind.’s infringement of the ‘823 Patent.

39. Global Ind.’s infringement of the ‘823 patent has and will continue to cause irreparable injury and damage to Sudenga unless and until the Court enjoins Global Ind. from committing further infringing acts.

40. Sudenga is entitled to recover damages from Global Ind. as a result of Global Ind.'s wrongful acts of infringement in an amount subject to proof at trial.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 9,206,001

41. Sudenga repeats and realleges all allegations set forth above in paragraphs 1-40 as if they were stated in full and incorporated herein.

42. Sudenga owns and holds all legal title, interest, and rights in the '001 Patent.

43. Global Ind. and its division Hutchinson/Mayrath did not and does not have authority or permission to make, use, offer to sell, sell, or import into the United States products that incorporate the subject matter claimed in the '001 Patent.

44. Global Ind. was placed on actual notice of the '001 patent at least by the time of receipt of the January 28, 2016 letter sent by Sudenga, as well as through subsequent communications between Sudenga, Global Ind., and AGI, and by the filing and service of the Complaint in this action.

45. On information and belief, Global Ind. has, in violation of 35 U.S.C. § 271, directly and/or indirectly infringed and continue to infringe one or more claims of the '001 Patent, including at least claim 1, either literally or under the doctrine of equivalents, by making using, selling, offering for sale, or importing infringing products. Infringing products include at least the "Hutchinson NexGen 3000 Series Commercial Sweep" bin sweep system, which is also referred to as the "NexGen 3000 Klean Sweep Auger" bin sweep system.

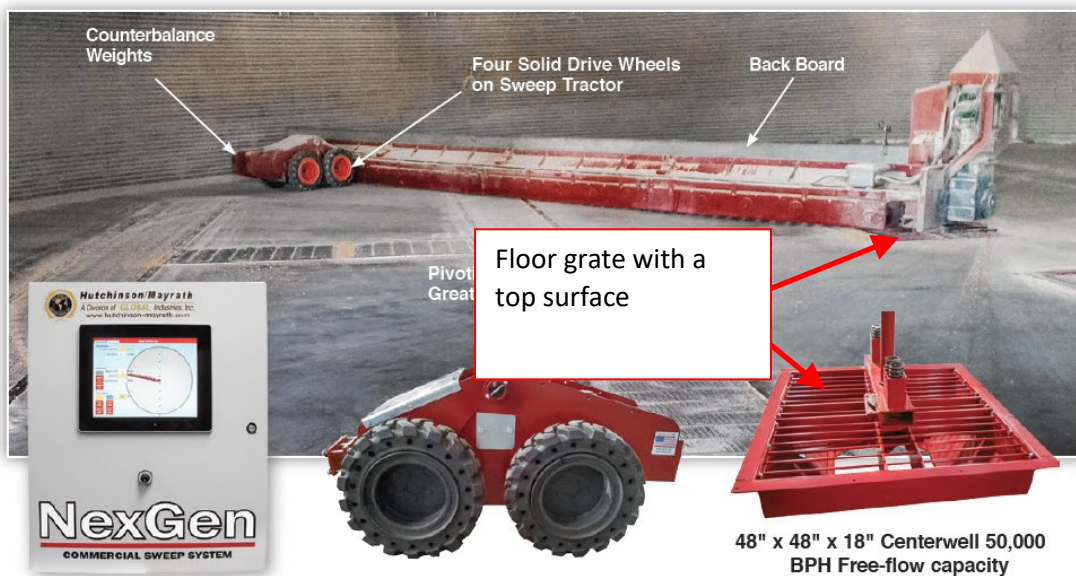


“Hutchinson Bin Unloading Systems” Brochure (2016), page 10, available at <http://www.hutchinson-mayrath.com/wp-content/uploads/2016/06/Bin-Unloading-Systems.pdf>.

46. On information and belief, Global Ind.’s bin sweep systems, including the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, provide an apparatus for use above a floor grate, and the apparatus includes a pivot pipe extending above a top surface of the floor grate, with the pivot pipe defining a vertical pivot axis.

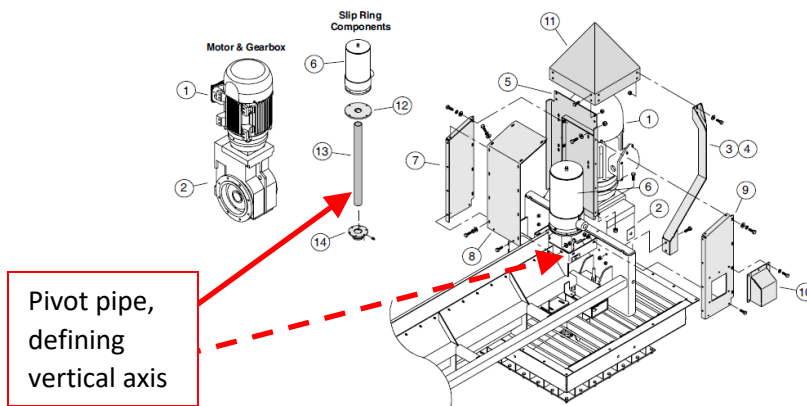
NEXGEN 3000 SERIES COMMERCIAL SWEEP

A Key Component to Zero Bin Entry Operation



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DRIVE ASSEMBLY COMPONENTS



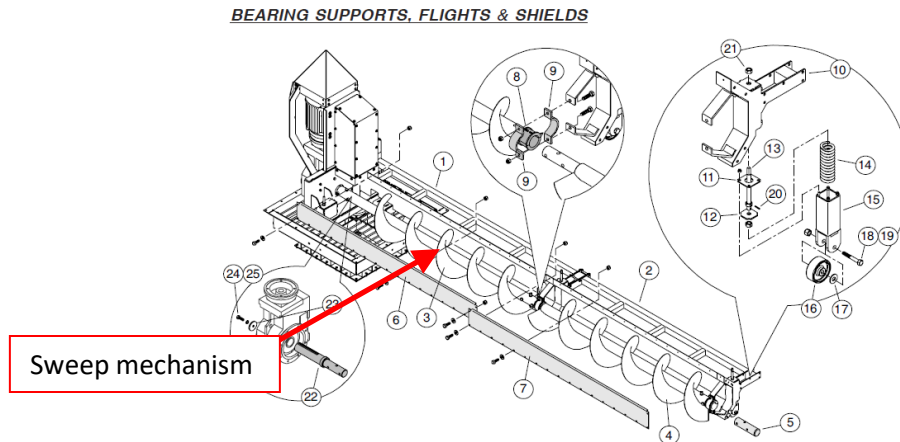
Hutchinson/Mayrath, “NexGen 3000 Klean Sweep Auger: Owner’s & Operator’s Manual” Publication No. 1044890 (effective August 15, 2014), page P-3. (annotated).

47. On information and belief, Global Ind.’s bin sweep systems, including the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, provide a collector ring having a first stationary portion and a second rotatable portion, wherein the stationary portion is attached to the pivot pipe above the floor grate.

| NEXGEN COMMERCIAL SWEEP SPECIFICATIONS | | | | | | |
|---|-------------------------------------|--|---|---|---|---|
| NEXGEN Model | Capacities | Flighting | Drive | Tractor | Center Well Option | Control Box Option |
| 3000 | 7,500 – 15,000 BPH (203-406 TPH) | 18" (45.7cm) O.D. x 3/8" (10 mm) thick | 10:1 Gear Reducer drive up to 50 HP (40 kW) | Unique 4 wheel drive tractor design, one tractor on bin diameters up to 88' and two tractors in diameters 90' to 150' | 48" x 48" (122 cm x 122 cm) opening with above floor Electric Slip Ring | Control Box allows automatic control for starting and stopping the tractor determined by the amount of amps being drawn by the motor operating the sweep flight. Also features a tractor reverse option as well as a main "on-off" switch. Includes touch screen controls to allow flight speed control, will display current sweep position |

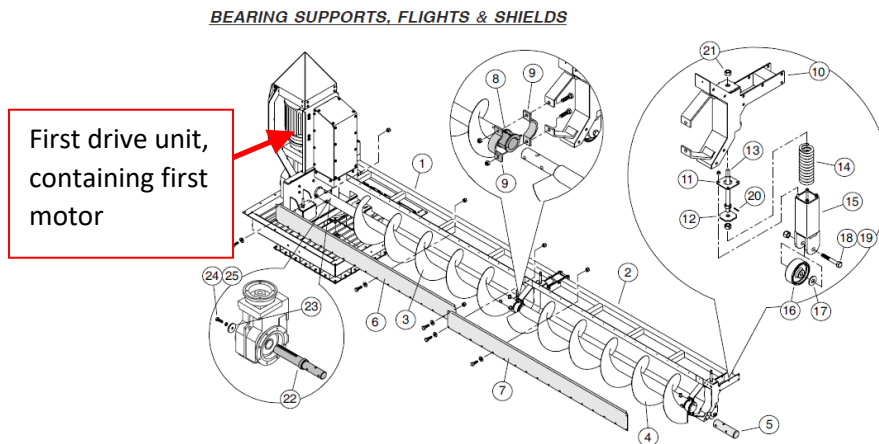
*“Hutchinson Bin Unloading Systems” Brochure (2016), page 10, available at
<http://www.hutchinson-mayrath.com/wp-content/uploads/2016/06/Bin-Unloading-Systems.pdf>. (annotated).*

48. On information and belief, Global Ind.’s bin sweep systems, including the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, provide a sweep mechanism configured to move in an arc about the vertical pivot axis, the sweep mechanism having first and second ends, wherein the first end is positioned proximate the collector ring.



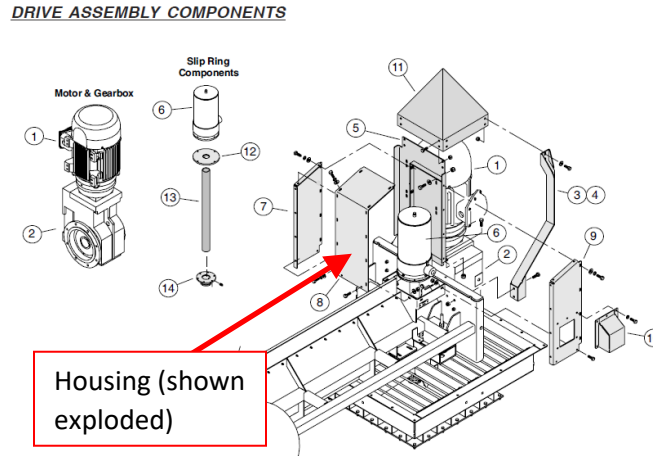
Hutchinson/Mayrath, "NexGen 3000 Klean Sweep Auger: Owner's & Operator's Manual" Publication No. 1044890 (effective August 15, 2014), page P-2 (annotated); see also Hutchinson/Mayrath, "Hutchinson/Mayrath's NexGen 3150 Commercial Bin Sweep" (Nov. 26, 2014) at <https://www.youtube.com/watch?v=Iw3xUtM3-JI>.

49. On information and belief, Global Ind.'s bin sweep systems, including the "Hutchinson NexGen 3000 Series Commercial Sweep" bin sweep system, provide a first drive unit positioned proximate the first end of the sweep mechanism, the first drive unit containing a first motor for driving the sweep mechanism, wherein the first drive unit and second rotatable portion of the collector ring rotate together about the pivot axis.



Hutchinson/Mayrath, "NexGen 3000 Klean Sweep Auger: Owner's & Operator's Manual" Publication No. 1044890 (effective August 15, 2014), page P-2 (annotated); see also Hutchinson/Mayrath, "Hutchinson/Mayrath's NexGen 3150 Commercial Bin Sweep" (Nov. 26, 2014) at <https://www.youtube.com/watch?v=Iw3xUtM3-JI>.

50. On information and belief, Global Ind.'s bin sweep systems, including the "Hutchinson NexGen 3000 Series Commercial Sweep" bin sweep system, provide a housing surrounding the collector ring, wherein the housing is adjacent to the sweep mechanism on one side and is adjacent to the first drive unit on another side.



Hutchinson/Mayrath, "NexGen 3000 Klean Sweep Auger: Owner's & Operator's Manual" Publication No. 1044890 (effective August 15, 2014), page P-3. (annotated).

51. On information and belief, Global Ind.'s infringement of the '001 Patent was and is willful because Global Ind. had actual notice of the '001 Patent, and Global Ind. knew that its activities infringe the '001 Patent, in objective and subjective reckless disregard of the '001 Patent and the rights conferred by the '001 Patent to Sudenga.

52. The '001 Patent is entitled to a presumption of validity pursuant to 35 U.S.C. § 282(a).

53. Sudenga has been injured and suffered significant financial damage as a direct and proximate result of Global Ind.'s infringement of the '001 Patent.

54. Global Ind.'s infringement of the '001 patent has and will continue to cause irreparable injury and damage to Sudenga unless and until the Court enjoins Global Ind. from committing further infringing acts.

55. Sudenga is entitled to recover damages from Global Ind. as a result of Global Ind.'s wrongful acts of infringement in an amount subject to proof at trial.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 10,017,338

56. Sudenga repeats and realleges all allegations set forth above in paragraphs 1-55 as if they were stated in full and incorporated herein.

57. Sudenga owns and holds all legal title, interest, and rights in the ‘338 Patent.

58. Global Ind. and its division Hutchinson/Mayrath did not and does not have authority or permission to make, use, offer to sell, sell, or import into the United States products that incorporate the subject matter claimed in the ‘338 Patent.

59. Global Ind. had constructive notice of the ‘338 Patent because Sudenga has marked patented articles.

60. Global Ind. was placed on actual notice of the ‘338 patent at least by the time of the filing and service of the Second Amended Complaint in this action.

61. On information and belief, Global Ind. has, in violation of 35 U.S.C. § 271, directly and/or indirectly infringed and continue to infringe one or more claims of the ‘338 Patent, including at least claim 1, either literally or under the doctrine of equivalents, by making using, selling, offering for sale, or importing infringing products. Infringing products include at least the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, which is also referred to as the “NexGen 3000 Klean Sweep Auger” bin sweep system.

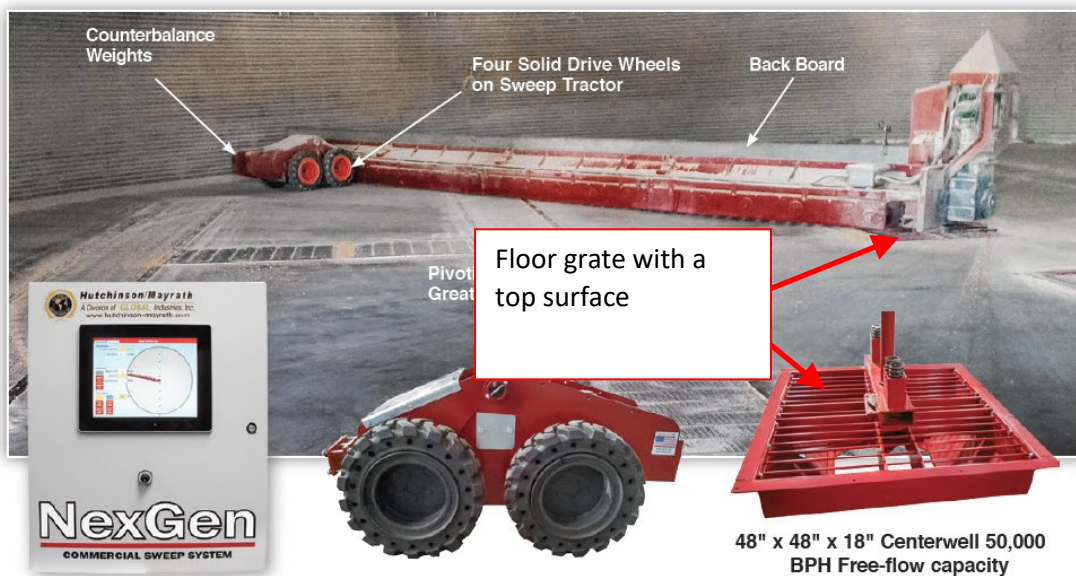


“Hutchinson Bin Unloading Systems” Brochure (2016), page 10, available at <http://www.hutchinson-mayrath.com/wp-content/uploads/2016/06/Bin-Unloading-Systems.pdf>.

62. On information and belief, Global Ind.’s bin sweep systems, including the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, provide an apparatus for use above a floor grate, and the apparatus includes a pivot pipe extending above a top surface of the floor grate, with the pivot pipe defining a vertical pivot axis.

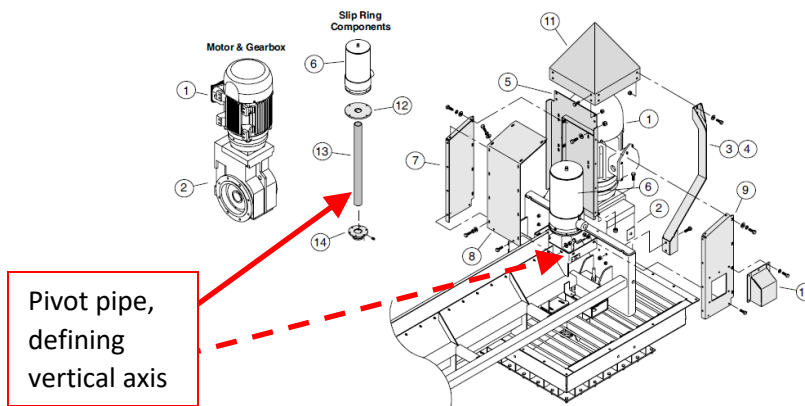
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DRIVE ASSEMBLY COMPONENTS



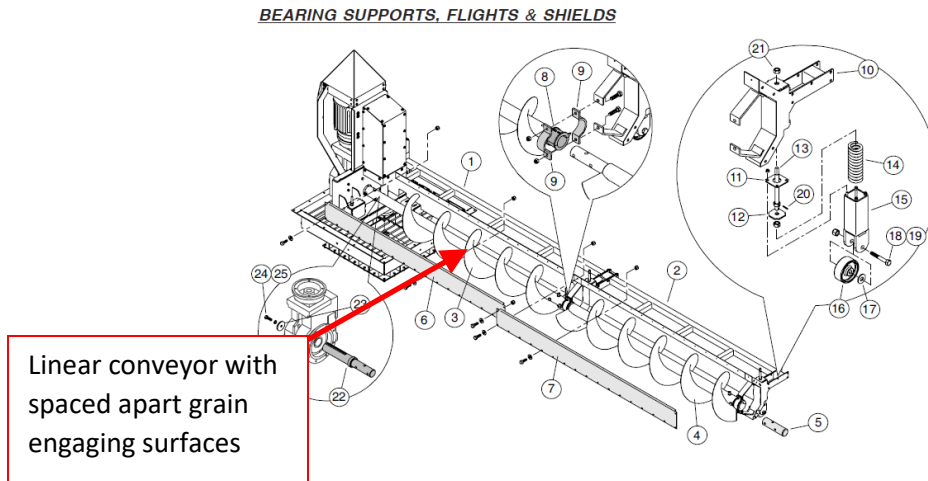
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63. On information and belief, Global Ind.’s bin sweep systems, including the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, provide a collector ring having a first stationary portion and a second rotatable portion, wherein the stationary portion is attached to the pivot pipe above the floor grate.

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| 3000 | 7,500 – 15,000 BPH (203-406 TPH) | 18" (45.7cm) O.D. x 3/8" (10 mm) thick | 10:1 Gear Reducer drive up to 50 HP (40 kW) | Unique 4 wheel drive tractor design, one tractor on bin diameters up to 88' and two tractors in diameters 90' to 150' | 48" x 48" (122 cm x 122 cm) opening with above floor Electric Slip Ring | Control Box allows automatic control for starting and stopping the tractor determined by the amount of amps being drawn by the motor operating the sweep flight. Also features a tractor reverse option as well as a main "on-off" switch. Includes touch screen controls to allow flight speed control, will display current sweep position |

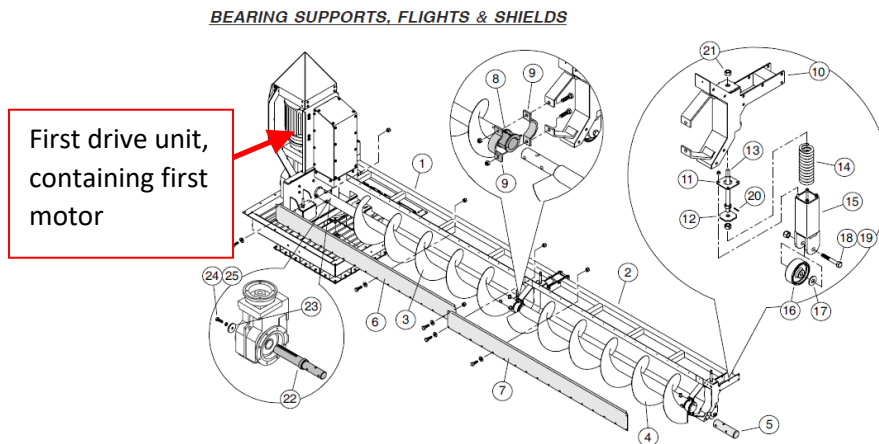
“Hutchinson Bin Unloading Systems” Brochure (2016), page 10, available at <http://www.hutchinson-mayrath.com/wp-content/uploads/2016/06/Bin-Unloading-Systems.pdf>. (annotated).

64. On information and belief, Global Ind.’s bin sweep systems, including the “Hutchinson NexGen 3000 Series Commercial Sweep” bin sweep system, provide a linear conveyor having a first end, a second end, and a length therebetween, wherein the first end is positioned proximate the collector ring and connected to the rotatable portion of the collector ring to rotate together with the rotatable portion about the pivot axis, and wherein the linear conveyor includes a plurality of spaced apart grain engaging surfaces along the length between the first end and the second end.



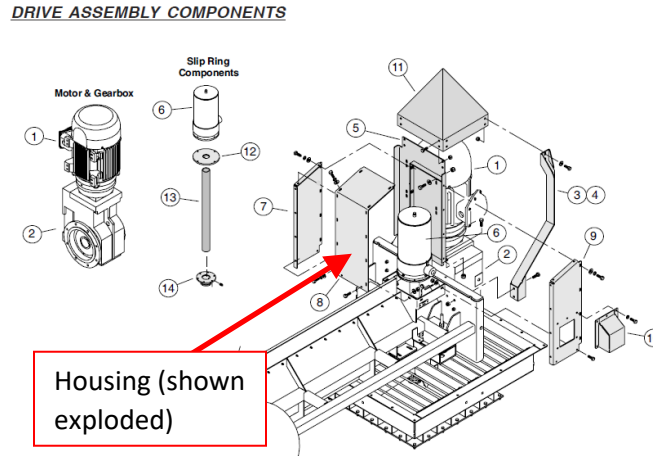
Hutchinson/Mayrath, "NexGen 3000 Klean Sweep Auger: Owner's & Operator's Manual" Publication No. 1044890 (effective August 15, 2014), page P-2 (annotated); see also Hutchinson/Mayrath, "Hutchinson/Mayrath's NexGen 3150 Commercial Bin Sweep" (Nov. 26, 2014) at <https://www.youtube.com/watch?v=Iw3xUtM3-JI>.

65. On information and belief, Global Ind.'s bin sweep systems, including the "Hutchinson NexGen 3000 Series Commercial Sweep" bin sweep system, provide a first drive unit positioned proximate the first end of the linear conveyor, the first drive unit containing a first motor for driving the linear conveyor, wherein the first drive unit and second rotatable portion of the collector ring rotate together about the pivot axis.



Hutchinson/Mayrath, "NexGen 3000 Klean Sweep Auger: Owner's & Operator's Manual" Publication No. 1044890 (effective August 15, 2014), page P-2 (annotated); see also Hutchinson/Mayrath, "Hutchinson/Mayrath's NexGen 3150 Commercial Bin Sweep" (Nov. 26, 2014) at <https://www.youtube.com/watch?v=Iw3xUtM3-JI>.

66. On information and belief, Global Ind.'s bin sweep systems, including the "Hutchinson NexGen 3000 Series Commercial Sweep" bin sweep system, provide a housing covering at least a top of the collector ring, wherein the linear conveyor extends away from the housing, and wherein the first drive unit is positioned adjacent the housing.



Hutchinson/Mayrath, "NexGen 3000 Klean Sweep Auger: Owner's & Operator's Manual" Publication No. 1044890 (effective August 15, 2014), page P-3. (annotated)

67. On information and belief, Global Ind.'s infringement of the '338 Patent is willful because Global Ind. has actual notice of the '338 Patent, and Global Ind. knew that its activities infringe the '338 Patent, in objective and subjective reckless disregard of the '338 Patent and the rights conferred by the '338 Patent to Sudenga.

68. The '338 Patent is entitled to a presumption of validity pursuant to 35 U.S.C. § 282(a).

69. Sudenga has been injured and suffered significant financial damage as a direct and proximate result of Global Ind.'s infringement of the '338 Patent.

70. Global Ind.'s infringement of the '338 patent has and will continue to cause irreparable injury and damage to Sudenga unless and until the Court enjoins Global Ind. from committing further infringing acts.

71. Sudenga is entitled to recover damages from Global Ind. as a result of Global Ind.'s wrongful acts of infringement in an amount subject to proof at trial.

REQUEST FOR RELIEF

Sudenga respectfully requests the following relief:

A. A judgment that Global Ind. has infringed and is infringing one or more claims of the Patents-in-Suit, and is liable to Sudenga for damages caused by such infringement;

B. An award of damages, not less than a reasonable royalty, including pre-judgment and post-judgment interest and costs, in an amount adequate to compensate Sudenga for Global Ind.'s infringement of the Patents-in-Suit;

C. A judgment that Global Ind.'s infringement of the Patents-in-Suit was and is willful and that damages shall be increased under 35 U.S.C. § 284 to three times the amount found or measured;

D. An order permanently enjoining Defendant from infringing the Patents-in-Suit;

E. If a permanent injunction is not granted, a judicial determination of the conditions for future infringement such as an ongoing royalty;

F. A post-judgment equitable accounting of damages owed by Defendant for the period of infringement of the Patents-in-Suit following the period of damages established at trial;

G. A finding that this case is "exceptional" and an award of attorneys' fees, expenses, and costs incurred in this action, pursuant to 35 U.S.C. § 285; and

H. Any other and further relief at law or in equity as the Court deems just and proper.

JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the Seventh Amendment to the Constitution of the United States, Plaintiff hereby demands a trial by jury of all issues triable in the above action.

Dated: February 1, 2019

Respectfully Submitted,

By: /s/ Michael S. Dodig

Michael S. Dodig (D.Kan. Bar No. 16660)
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Lee's Summit, MO 64086
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Facsimile: (816) 554-4551
E-Mail: Dodig@dodiglaw.com

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admitted *pro hac vice*
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E-mail: kmares@wck.com

**ATTORNEYS FOR PLAINTIFF
SUDENGA INDUSTRIES,
INCORPORATED**

Certificate of Service

I hereby certify that on February 1, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all attorneys of record.

/s/ Michael S. Dodig

Attorney for Plaintiff