

5. The Court has personal jurisdiction over Dunnwell. Venue in this judicial district is proper under 28 U.S.C. § 1391.

BACKGROUND

6. Facilitec is in the business of selling products and services in the field of rooftop grease containment and kitchen exhaust cleaning.

7. Exhaust fans for restaurant kitchens provide venting of smoke and fumes from cooking through a duct to an exhaust port typically located on the roof of the restaurant building. The exhaust vents on the roof will often leak grease from the cooking operation onto the rooftop causing damage to the roof surface.

8. Facilitec sells, installs, and maintains filter assemblies under the trademark GREASE GUARD for installation on and/or around kitchen exhaust vents to trap and filter exhaust grease to limit damage to the roof. The filter assemblies include multi-layer pads that require periodic replacement. Facilitec owns several patents covering various aspects of such filter assemblies.

9. On information and belief, Dunnwell contracts with sub-contractors in the Northern District of Illinois to provide rooftop grease containment and kitchen exhaust cleaning services for restaurants in the Northern District of Illinois on behalf of Dunnwell.

10. On information and belief, as part of Dunnwell's services, Dunnwell performs and directs others to perform maintenance on Facilitec grease filter assemblies.

11. On information and belief, Dunnwell distributes instructions to those who perform rooftop grease containment services such as those attached as Exhibit A, which explicitly teach how to assemble and install pads to replace patented Facilitec pads used with the Facilitec GREASE GUARD assemblies.

12. On information and belief, Dunnwell provides replacement materials for the replacement of the patented Facilitec pads.

13. Dunnwell was specifically notified via letters sent by Facilitec's counsel on May 18, 2006 and June 27, 2006 that assembly and installation of replacements of Facilitec's patented pads constituted infringement of Facilitec's intellectual property including U.S. Patent 5,318,607 ("the '607 Patent") (Exhibit B).

COUNT I

INFRINGEMENT OF PATENT NO. 5,318,607

14. On June 7, 1994, the '607 Patent entitled "Grease Trap and Filter Apparatus" was duly and legally issued to Grease Guard, Inc. and Dundee Manufacturing Co. Inc., on an application filed by Patrick A. Malloy, Jean J. Jodoin, Charles M. Murphy, Christopher S. Barry, Kevin R. Chwala, and Charles E. Bain.

15. Through a series of assignments, Facilitec is the owner of all right, title, and interest in the '607 Patent.

16. Dunnwell has been, and is willfully infringing the '607 Patent by assembling and installing patented grease absorbing pads for use with kitchen exhaust vent grease collection assemblies, within the United States; by inducing others to infringe the '607 Patent through assembling and installing patented grease absorbing pads; and/or by contributing to the infringement by others of the '607 Patent through assembling and installing patented grease absorbing pads. Unless enjoined by the Court, Dunnwell will continue to infringe, induce the infringement of, and/or contributorily infringe the '607 Patent.

PRAYER FOR RELIEF

WHEREFORE, Facilitec prays:

1. Judgment that the '607 Patent is valid, enforceable, and infringed by Dunnwell;

2. A preliminary and permanent injunction enjoining Dunnwell, its officers, agents, servants, employees, and those persons acting in active concert or participation with Dunnwell from infringing, inducing infringement of, or contributorily infringing the '607 Patent;
3. An award of damages arising out of Dunnwell's infringement, inducing infringement, or contributory infringement of the '607 Patent, together with interest;
4. Judgment that damages so adjudged be trebled in accordance with 35 U.S.C. § 284;
5. Judgment that this case is an exceptional case such that Facilitec is awarded its attorneys' fees, costs, and expenses incurred in this action in accordance with 35 U.S.C. § 285;
6. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Facilitec demands trial by jury of all issues triable of right by a jury.

Date: February 4, 2009

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