

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

<u>FELLOWES, INC.,</u>)	
)	
Plaintiff,)	Civil Action No.:1:10-CV-7587
)	
v.)	JURY TRIAL REQUESTED
)	
<u>ACCO BRANDS CORPORATION,</u>)	
)	
Defendant.)	
)	

FIRST AMENDED COMPLAINT

Plaintiff, FELLOWES, INC. ("FELLOWES") alleges as follows:

PARTIES

1. Plaintiff FELLOWES is a corporation organized and existing under the laws of and incorporated in the state of Illinois, with a principal place of business located at 1789 Norwood Avenue, Itasca, Illinois, 60143.

2. Defendant ACCO BRANDS CORPORATION ("ACCO") is a corporation existing under the laws of Delaware with a principal place of business at 300 Tower Parkway, Lincolnshire, Illinois, 60069.

3. Fellowes was founded in Chicago, Illinois in 1917 as the Bankers Box Company. As the workspace evolved so did Fellowes, expanding into new categories and introducing innovative products, including the first personal shredder.

4. From its founding in Chicago, Fellowes has expanded over the years into the United Kingdom, Canada, Australia, France, Germany, Italy, The Netherlands, Poland, Spain, Singapore, Japan, Korea, China and Russia.

5. Fellowes, Inc. is the global leader in paper shredder design and engineering, providing high quality personal and general office business shredders on the market.

6. As a result of Fellowes' continuous product development efforts, it has invented a number of shredder improvements, including those in U.S. Patent Nos. 7,631,823, 6,978,954, 7,226,009, and 7,025,293, which relate to Fellowes 100% Jam-Proof® technology, shredder bin level sensing, or shredder ergonomics. ACCO has infringed each of these patents, as alleged in detail below.

7. ACCO imports paper shredders into the United States.

8. ACCO sells and offers to sell paper shredders in the United States.

9. On information and belief, ACCO products are sold to office and computer products retailers, wholesalers, mail order and Internet catalog companies, and educational institutions around the world, including in the United States and within the Northern District of Illinois.

JURISDICTION AND VENUE

10. This is an action for patent infringement arising under the United States patent laws, 35 U.S.C. §§ 1 et seq.

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338.

12. This Court has personal jurisdiction over ACCO pursuant to 735 ILCS § 5/2-209 et seq. and the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

13. Venue properly lies in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

PATENTS-IN-SUIT

14. Fellowes asserts that ACCO shredders infringe three of Fellowes' United States patents. The Fellowes patents will be collectively referred to as the patents-in-suit.

15. United States Patent No. 7,631,823 (" '823") is entitled "Shredder with thickness detector" and issued on December 15, 2009.

16. United States Patent No. 7,226,009 (" '009") is entitled "Shredder with pivoting housing for the shredder mechanism" and issued on February 3, 2006.

17. United States Patent No. 7,025,293 (" '293") is entitled "Shredder with pivoting housing for the shredder mechanism" and issued on April 11, 2006.

18. Copies of the '823, '009, and '293 patents are attached as Exhibits A, B, and C.

19. The '823, '009, and '293 patents are assigned to FELLOWES.

20. FELLOWES is the owner of the '823, '009, and '293 patents.

FACTS

21. On information and belief, ACCO has been aware of the existence of the '009 patent since before the filing of the first Complaint.

22. On information and belief, ACCO has been aware of the existence of the '293 patent since before the filing of the first Complaint.

23. FELLOWES is a direct competitor of ACCO in the sale of paper shredders in the United States, including within the Northern District of Illinois.

24. On information and belief, ACCO imported into the United States, and solicited sales and sold shredders in the United States, including within the Northern District of Illinois.

25. On information and belief, ACCO manufactures, imports, and sells paper shredders under the brand name GBC® ("GBC shredders").

26. On information and belief, ACCO distributes shredders throughout the United States, including within the Northern District of Illinois.

27. On information and belief, ACCO has sold shredders with model number GDS2213 in the United States.

28. On information and belief, ACCO has sold shredders with model number GDHS713 in the United States.

29. On information and belief, ACCO has sold shredders with model number GDY1813 in the United States.

30. On information and belief, ACCO has sold shredders with model number GSS208 in the United States.

31. On information and belief, ACCO has sold shredders with model number GSX168 in the United States.

32. On information and belief, ACCO has sold shredders with model number RDS1713 in the United States.

33. On information and belief, ACCO has sold shredders with model number RSX128 130 in the United States.

34. On information and belief, ACCO has sold shredders with model number SC170 in the United States.

35. On information and belief, ACCO has sold shredders with model number CC175 in the United States.

36. On information and belief, ACCO has sold shredders with model number SC180 in the United States.

37. On information and belief, a substantial part of the events and damages giving rise to this action occurred in the Northern District of Illinois.

38. On information and belief, ACCO has established contacts with the forum and purposefully availed themselves of this jurisdiction by committing and continuing to commit acts of patent infringement in the Northern District of Illinois, and elsewhere in the United States.

39. On or about July 9, 2009, counsel for Fellowes sent a letter to ACCO stating that ACCO products infringed the '009 patent. A copy of the letter is attached as Exhibit F.

40. On or about July 9, 2009, counsel for Fellowes sent a letter to ACCO stating that ACCO products infringed the '293 patent. A copy of the letter is attached as Exhibit F.

41. ACCO had notice of the '009 and '293 patents in July of 2009.

**COUNT I - PATENT INFRINGEMENT OF
U.S. PATENT No. 7,631,823**

42. FELLOWES incorporates paragraphs 1 through 42 above by this reference, as though fully set forth herein.

43. On information and belief, ACCO has directly infringed, contributorily infringed, and/or actively induced infringement of the '823 patent by making, using, importing, offering for sale, and/or selling in the United States, including to customers in the Northern District of Illinois, shredders covered by one or more claims of the '823 patent.

44. On information and belief, ACCO has directly infringed, contributorily infringed, and/or actively induced infringement of the '823 patent by making, using, importing, offering for sale, and/or selling in the United States at least the following shredder models: GDS2213, GDHS713, GDX1813, GSS208, GSX168, RDS1713, and RSX128.

45. Fellowes currently asserts at least Claims 19, 21, 22, 23, 25, and 27-29 of the '823 patent as being infringed by Defendant ACCO under 35 U.S.C. § 271(a), (b), and/or (c). See

Exhs. D and G which are incorporated herein by reference. Fellowes reserves the right to assert additional claims from the '823 patent against additional products, if additional infringing ACCO products are discovered.

46. On information and belief, ACCO's infringement of the '823 patent has been and continues to be deliberate and willful, and such infringement will continue unless ACCO is enjoined by this Court.

47. As a consequence of ACCO's infringement complained of herein, FELLOWES has been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

**COUNT II - PATENT INFRINGEMENT OF
U.S. PATENT No. 7,226,009**

48. FELLOWES incorporates paragraphs 1 through 48 above by this reference, as though fully set forth herein.

49. On information and belief, ACCO has directly infringed, contributorily infringed, and/or actively induced infringement of the '009 patent by making, using, importing, offering for sale, and/or selling in the United States, including to customers in the Northern District of Illinois, shredders covered by one or more claims of the '009 patent.

50. On information and belief, ACCO has directly infringed, contributorily infringed, and/or actively induced infringement of the '009 patent by making, using, importing, offering for sale, and/or selling in the United States at least the following shredder models: SC170, CC175, SC180, and CC185.

51. Fellowes currently asserts at least Claim 1 of the '009 patent as being infringed by ACCO under 35 U.S.C. § 271(a), (b), and/or (c). See Exhs. E and G which are incorporated

herein by reference. Fellowes reserves the right to assert additional claims from the '009 patent against additional products, if additional infringing ACCO products are discovered.

52. On information and belief, ACCO's infringement of the '009 patent has been deliberate and willful, and further infringement would happen unless ACCO is enjoined by this Court.

53. As a consequence of ACCO's infringement complained of herein, FELLOWES has been damaged and, to the extent such infringing acts are ongoing, will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

**COUNT III - PATENT INFRINGEMENT OF
U.S. PATENT NO. 7,025,293**

54. FELLOWES incorporates paragraphs 1 through 54 above by this reference, as though fully set forth herein.

55. On information and belief, ACCO has directly infringed, contributorily infringed, and/or actively induced infringement of the '293 patent by making, using, importing, offering for sale, and/or selling in the United States, including to customers in the Northern District of Illinois, shredders covered by one or more claims of the '293 patent

56. On information and belief, ACCO has directly infringed, contributorily infringed, and/or actively induced infringement of the '293 patent by making, using, importing, offering for sale, and/or selling in the United States at least the following shredder models: SC170, CC175, and SC180.

57. Fellowes currently asserts at least Claim 48 of the '293 patent as being infringed by ACCO under 35 U.S.C. § 271(a), (b), and/or (c). See Exhs. F and G which are incorporated

herein by reference. Fellowes reserves the right to assert additional claims from the '293 patent against additional products, if additional infringing ACCO products are discovered.

58. On information and belief, ACCO's infringement of the '293 patent has been deliberate and willful, and further infringement would happen unless ACCO is enjoined by this Court.

59. As a consequence of ACCO's infringement complained of herein, FELLOWES has been damaged and, to the extent such infringing acts are ongoing, will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

PRAYER FOR JUDGMENT AND RELIEF

WHEREFORE, FELLOWES respectfully requests judgment and relief as follows:

(a) Pursuant to 35 U.S.C. § 271, a determination that ACCO has directly infringed, contributorily infringed, and/or actively induced infringement of claims of the patents-in-suit;

(b) Pursuant to 35 U.S.C. § 283, an order that ACCO and those in privity with them be preliminarily and permanently enjoined from infringing the patents-in-suit through the manufacture, use, import, offer for sale, and/or sale of infringing shredders;

(c) Pursuant to 35 U.S.C. § 284, an award of damages adequate to compensate FELLOWES for infringement of the patents-in-suit, together with prejudgment interest, costs and disbursements as fixed by the Court;

(d) Pursuant to 35 U.S.C. § 284, an award increasing damages up to three times the amount found or assessed for infringement of the patents-in-suit by ACCO due to the willful and deliberate nature of the infringement;

(e) Pursuant to 35 U.S.C. § 285, a determination that this is an exceptional case and an assessment of reasonable attorneys' fees;

- (f) An award of pre- and post-judgment interest as permitted; and
- (g) Such other and further relief as the Court deems equitable and just.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all issues.

Dated: May 6, 2019

FELLOWES, INC.

By its Attorneys,

s/ William P. Atkins

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 6, 2019, a true and correct copy of FIRST AMENDED COMPLAINT was served upon counsel of record in accordance with the Federal Rules of Civil Procedure via the Court's CM/ECF electronic filing system.

/s/William P. Atkins
William P. Atkins