

60018. Defendant makes, uses, sells and offers for sale merchandise display systems, including a new system that Defendant refers to as the Power Zone Sure-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 Sure-Set Self-Facing System in Illinois and this District that infringes RTC's rights under the patents asserted in this Complaint.

DEFENDANT'S PAST AND REPEATED INFRINGEMENT

4. This is the sixth time Defendant has infringed RTC's patents and the third time Defendant has infringed particular patents. In 2017, RTC filed a patent infringement lawsuit (*RTC Industries, Inc. v. Fasteners for Retail, Inc. et al*, Civil Action No. 17-cv-3595, Northern District of Illinois) against Defendant for infringing a number of RTC's Patents, including RTC's U.S. Patent No. 8,096,427 and U.S. Patent No. 6,041,720, the same patents asserted in this Complaint.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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

10. 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.

11. 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 Sure-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 Sure-Set Self-Facing System, one example of Defendants' infringement in this District.

RTC'S PATENTED TECHNOLOGY

12. 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. Some of those patents are asserted in this Complaint.

13. 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 accomplish 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

14. Defendant makes, uses, sells and offers for sale merchandise display systems that repeatedly infringe RTC's patented technologies. Defendant calls its infringing system the Power Zone Sure-Set Self-Facing System. Defendant sells this system to retail stores in direct

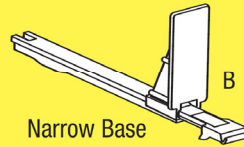
competition with RTC. The Power Zone Sure-Set Self-Facing System is illustrated below and also shown in Exhibit A.



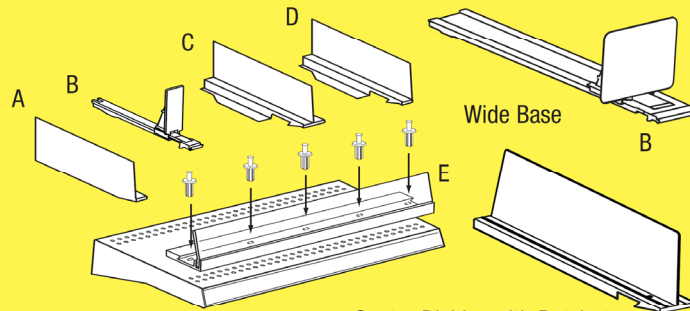
15. The Power Zone Sure-Set Self-Facing System is a merchandise display system that pushes products forward on the shelf and organizes the products into rows. This system includes dividers, pushers and a front rail that are mounted to a shelf. The dividers include a divider wall that extends upwardly from a divider floor on which product can sit. The system includes pusher tracks, paddles and coiled springs. Components of Defendant's Power Zone Sure-Set Self-Facing System are depicted in the below figures taken from Defendant's advertisement. (Exhibit A.)



Shown with optional custom imprint



Narrow Base



Center Divider with Ratchet

Patented
Patent Pending

See Above System Components

- A. Left End Divider
- B. Track Assembly
- C. Center Divider
- D. Right End Divider
- E. Front Fence / Rail

COUNT 1 - INFRINGEMENT OF U.S. PATENT NO. 8,096,427

16. RTC realleges and incorporates by reference the allegations stated in paragraphs 1-15 of this Complaint as if fully set forth herein.

17. On January 17, 2012, the United States Patent and Trademark Office duly and legally issued United States Patent No. 8,096,427 (“the ‘427 patent”) entitled “Product Management Display System.” RTC is the owner of the ‘427 patent, by virtue of assignment of all rights, title and interest to the ‘427 patent. RTC marks its products in compliance with 35 U.S.C. § 287. A true and correct copy of the ‘427 patent is attached to this Complaint as Exhibit B.

18. Defendant manufactures, uses, offers to sell, sells, and/or imports merchandise display systems, including, but not limited to its Power Zone Sure-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 ‘427 patent, including at least claims 1-15, and 17-20.

19. Exemplary claim 1 of the ‘427 patent recites:

A merchandise-display system comprising:

an integrated base-and-divider assembly, wherein the base-and-divider assembly includes a base portion adapted for operative coupling to a front rail, and a divider portion for dividing displayed merchandise into rows,

wherein the divider portion protrudes from the base portion such that the divider portion separates the base portion into a first portion and a second portion;

a pusher track operatively coupled to the front rail, the pusher track comprising at least one rail with a top surface and a bottom surface, wherein the at least one rail defines at least one notch, the pusher track further comprising at least one projection configured to prevent the pusher track from sliding along the front rail; and

a spring-urged pusher mounted to the pusher track for pushing merchandise toward the front of the shelf, the pusher comprising a pusher face having a top and a bottom, wherein the base-and-divider assembly and pusher track are separate components and each are mounted to the front rail that extends along a front portion of the shelf.

20. A claim chart cross-referencing the elements of claims 1-15, and 17-20 with an explanation of infringing aspects of the Power Zone Sure-Set Self-Facing System is attached as Exhibit C and is incorporated by reference herein

21. As shown in Exhibits A and C, the Power Zone Sure-Set Self-Facing System constitutes a merchandise display system including each and every element of at least claim 1 of the '427 patent, either literally or through the doctrine of equivalents, including:

an integrated base-and-divider assembly, wherein the base-and-divider assembly includes a base portion adapted for operative coupling to a front rail, and a divider portion for dividing displayed merchandise into rows,

the divider portion protrudes from the base portion such that the divider portion separates the base portion into a first portion and a second portion;

a pusher track operatively coupled to the front rail,

the pusher track comprising at least one rail with a top surface and a bottom surface, wherein the at least one rail defines at least one notch, the pusher track further comprising at least one projection configured to prevent the pusher track from sliding along the front rail; and

a spring-urged pusher mounted to the pusher track for pushing merchandise toward the front of the shelf,

the pusher comprising a pusher face having a top and a bottom,

the base-and-divider assembly and pusher track are separate components and each are mounted to the front rail that extends along a front portion of the shelf.

22. 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.

23. Defendant has induced its customers to use the Power Zone Sure-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 Sure-Set Self-Facing System. On information and belief, Defendant knew that its customers, in using the Power Zone Sure-Set Self-Facing System, were practicing the claims of the '427 patent. Accordingly, on information

and belief, Defendant has induced and is inducing its customers of the Power Zone Sure-Set Self-Facing System to infringe claims of the '427 patent.

24. On information and belief, Defendant's acts of infringement have been willful. Defendant has continued its infringement with knowledge of the '427 patent and in willful disregard of the '427 patent and the rights created thereunder.

25. RTC has been and will continue to be irreparably harmed by Defendant's infringement of the '427 patent.

COUNT 2 - INFRINGEMENT OF U.S. PATENT NO. 6,041,720

26. RTC realleges and incorporates by reference the allegations stated in paragraphs 1-25 of this Complaint as if fully set forth herein.

27. On March 28, 2000, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,041,720 ("the '720 patent") entitled "Product Management Display System." RTC is the owner of the '720 patent, by virtue of assignment of all rights, title and interest to the '720 patent. RTC marks its products in compliance with 35 U.S.C. § 287. A true and correct copy of the '720 patent is attached to this Complaint as Exhibit D.

28. Defendant manufactures, uses, offers to sell, sells, and/or imports merchandise display systems, including, but not limited to its Power Zone Sure-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 contributes to and induces infringement of, one or more claims of the '720 patent, including at least claims 1-8, 10 and 12.

29. Exemplary claim 5 of the '720 patent recites:

A merchandise display apparatus slidably engaged in a single front rail extending longitudinally along a gondola shelf, the display apparatus comprising:
a merchandise display surface, a front surface and an underside surface;

a first tongue extending from the front surface, the first tongue engaging a first groove in the front rail;

a second groove extending along edges in the underside surface of the slidable display apparatus, the second groove engaging a second tongue in the front rail;

wherein the display apparatus is slidably engaged along with the front rail by complementary tongue and groove cooperation of the display apparatus and the front rail.

30. As shown in Exhibits A and C, the Power Zone Sure-Set Self-Facing System constitutes a merchandise display system including each and every element of at least claim 5 of the '720 patent, either literally or through the doctrine of equivalents, including:

a merchandise display surface, a front surface and an underside surface;

a first tongue extending from the front surface, the first tongue engaging a first groove in the front rail;

a second groove extending along edges in the underside surface of the slidable display apparatus, the second groove engaging a second tongue in the front rail;

the display apparatus is slidably engaged along with the front rail by complementary tongue and groove cooperation of the display apparatus and the front rail.

31. A claim chart cross-referencing the elements of claims 1-8, 10 and 12 with an explanation of infringing aspects of the Power Zone Sure-Set Self-Facing System is attached as Exhibit C and is incorporated by reference herein.

32. Defendant's acts of infringement have been without express or implied license by RTC, and are in violation of RTC's rights.

33. Defendant induced its customers to use the Power Zone Sure-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 Sure-Set Self-Facing System. On information and belief, Defendant knew that its customers, in using the Power Zone Sure-Set Self-Facing System, were practicing the claims of the '720 patent. Accordingly, on information and belief, Defendant has induced and is inducing its customers of the Power Zone Sure-Set Self-Facing System to infringe claims of the '720 patent.

34. On information and belief, Defendant's acts of infringement have been willful. Defendant has continued its infringement with knowledge of the '720 patent and in willful disregard of the '720 patent and the rights created thereunder.

JURY DEMAND

35. 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 '427 patent and that Defendant has infringed the '720 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 '427 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 '427 and '720 patents, 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 RTC's '427 and '720 patents;

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: June 18, 2019

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***Attorneys for Plaintiff
RTC Industries, Inc.***

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of June, 2019, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will send electronic notification of such filing to counsel of record for Defendant.

By: /s/ Joseph J. Berghammer