

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BORAL BUILDING PRODUCTS INC.,

Plaintiff,

v.

AQUOR WATER SYSTEMS INC.,

Defendant.

CASE NO.

**PLAINTIFF'S ORIGINAL
COMPLAINT**

JURY DEMAND

This is a complaint for patent infringement. Boral Building Products Inc. ("Boral") brings this action against Defendant Aquor Water Systems Inc. ("Aquor") and states as follows.

PARTIES

1. Boral is a corporation duly organized and existing under the laws of the State of Michigan with its principal place of business at 29797 Beck Road, Wixom, Michigan 48393. Among other things, Boral is engaged in the development, manufacture, and sale of exterior mounting blocks for a wide range of electrical and plumbing fixtures.

2. Defendant Aquor is a Delaware corporation with its principal place of business at 240 Airport Rd., Port Townsend, Washington, 98368-9726.

3. Defendant Aquor is in the business of manufacturing, selling, marketing, and distributing mounting block products, including the Aquor Water System Mounting Block ("Aquor

1 Mounting Block”). Aquor distributes and sells these products throughout the United States,
2 including in Washington.

3 **JURISDICTION AND VENUE**

4 4. The allegations contained in paragraphs 1 through 3 above are incorporated by
5 reference as if fully set forth herein.

6 5. This action arises under the Patent Act, Title 35 of the United States Code, and is an
7 action for patent infringement under 35 U.S.C. § 271. Accordingly, this Court has subject matter
8 jurisdiction under 28 U.S.C. § 1338(a).

9 6. This Court has personal jurisdiction over Aquor because, *inter alia*, Aquor is a
10 resident of Washington and maintains its principal place of business in Washington. Aquor is
11 registered to conduct business in Washington and maintains a registered office in Washington.

12 7. This Court also has personal jurisdiction over Aquor because, *inter alia*, Aquor has
13 purposefully availed itself of the rights and benefits of Washington law by engaging in systematic
14 and continuous contacts with the State of Washington. On information and belief, Aquor regularly
15 and continuously transacts business within Washington, including by selling products, including the
16 infringing Aquor Mounting Block, directly and/or through affiliates, and/or by continuously and
17 systematically placing goods into the stream of commerce for distribution throughout the United
18 States, including Washington. On information and belief, Aquor derives substantial revenue from
19 the sale of those products in Washington and has thereby availed itself of the privilege of conducting
20 business within Washington.

21 8. This Court is the proper venue for this dispute pursuant to 28 U.S.C. §§ 1391 and
22 1400(b). Aquor has committed acts of infringement and has an established place of business within
23 this district. For instance, Aquor maintains its principal place of business in Port Townsend,
24 Washington, in Jefferson County, which is within the Western District of Washington. Additionally,
25 Aquor maintains an Office and Show Room at 12015 NE 8th Street, Suite 4, Bellevue, Washington,
26 in King County, which is within the Western District of Washington. Aquor has committed acts of

1 infringement within this judicial district, including importing, making, using, offering to sell, and
2 selling the Aquor Mounting Block.

3 **FACTUAL ALLEGATIONS**

4 **Background**

5 9. Boral and its related entities form a leading international building products and
6 construction materials group. In the United States, Boral develops, manufactures, and sells high
7 quality building products, including roofing, siding, trim, brick, and stone products.

8 10. Among other products, Boral designs, develops, manufactures, and sells a range of
9 innovative exterior mounting blocks for a wide range of electrical and plumbing fixtures, including
10 its SturdiMount® mounting block products, in the United States. Boral's mounting block products
11 provide a flat, smooth mounting surface for exterior fixtures. Boral's mounting block products,
12 which are composed of fiber cement, provide long-term exterior protection from water and other
13 natural elements. Boral's mounting block products are designed to include features that assure fast,
14 easy installation and a polished look.

15 11. Boral, through considerable investment in research and development and the skill of
16 its researchers and engineers, has been an innovator of exterior mounting block technology. Boral
17 has protected its innovations by pursuing intellectual property protection, including United States
18 Patent No. 8,881,468 ("468 Patent").

19 **United States Patent No. 8,881,468**

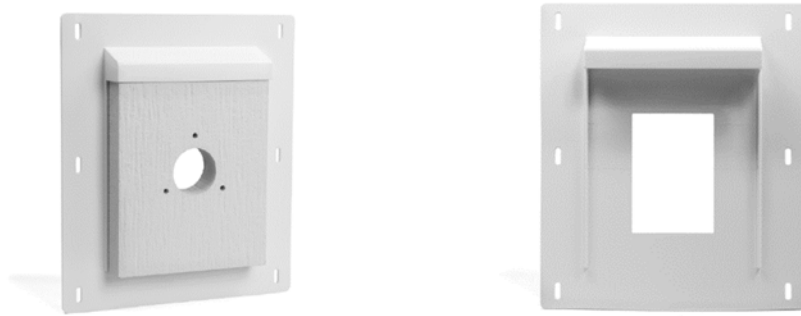
20 12. The 468 Patent duly and legally issued from U.S. Patent Application 13/119,910 on
21 November 11, 2014. The 468 Patent is titled "Fixture Wall Mount Assembly with Integral Flashing"
22 and names Brian K. McMullen as the inventor. A true and correct copy of the 468 Patent is attached
23 hereto as Exhibit A.

24 13. The claims of the 468 Patent are valid and enforceable. All rights in, to, and under
25 the 468 Patent have been assigned to Boral, and Boral has the exclusive right to enforce the 468
26 Patent.

Aquor's Infringing Product

14. Aquor is a manufacturer of water valves and related accessory products for use with its water valves, including an exterior mounting block. Aquor competes directly with Boral in the market for exterior mounting blocks.

15. At least as early as March 2019, Aquor introduced its Aquor Mounting Block, which consists of a fiber cement block, and a weather-resistant and pre-flashed, pre-cut flange. Aquor markets the Aquor Mounting Block as an accessory for a faster and better-weatherproofed installation of its water valve products. Aquor's Mounting Block's literature is attached hereto as Exhibit B (Aquor Mounting Block Specification Sheet), and Exhibit C (Aquor Mounting Block For Sale Page located at <<https://aquorwatersystems.com/shop/mounting-block/>>). Images from Aquor Mounting Block Specification Sheet (Ex. B) are reproduced below:



16. Aquor's exterior mounting block product, including the Aquor Mounting Block, practices the claims of the 468 Patent, including at least claim 1-5, 7, 10-12 and 18-19 of the 468 Patent. An exemplary claim chart showing Aquor's infringement of claims 1-5, 7, 10-12 and 18-19 of the 468 Patent is attached hereto as Exhibit D.

17. Aquor has had knowledge of the 468 Patent since at least as early as the filing of this Complaint.

COUNT I: INFRINGEMENT OF THE 468 PATENT

18. Boral reasserts and realleges the allegations contained in the foregoing paragraphs 1 through 17 as if each allegation was set forth herein in its entirety.

- f) Award Boral its attorneys' fees, costs, and expenses; and
g) Grant Boral any further relief that may be necessary to achieve justice.

JURY TRIAL DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Boral requests a trial by jury of all issues triable to a jury raised in this Complaint.

DATED this 11th day of December, 2019.

Respectfully submitted,

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