

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

Hydra-Flex, Inc.,

Civil File No. _____

Plaintiff,

vs.

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

Cleaning Systems, LLC,

Defendant.

Plaintiff Hydra-Flex, Inc. (“Hydra-Flex” or “Plaintiff”) for its Complaint for patent infringement against Defendant Cleaning Systems, LLC (“Defendant”) states and alleges as follows:

The Parties

1. Hydra-Flex is a business organized under the laws of the state of Minnesota. Hydra-Flex’s principal office is in Savage, Minnesota.
2. Hydra-Flex is a manufacturer of innovative and reliable fluid handling products.
3. Defendant is a limited liability company organized under the laws of Wisconsin.
4. Defendant’s principal office is in De Pere, Wisconsin.
5. Defendant sells car washing equipment and chemical solutions.

Jurisdiction and Venue

6. This is an action for patent infringement of United States Patent No. 8,887,743 (hereinafter the “’743 Patent”) pursuant to the United States Patent Act, 35 U.S.C. § 1 *et. seq.*, including at least 35 U.S.C. §§ 271 and 281–285.
7. This Court has original and exclusive jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Defendant because Defendant was organized under the laws of and has its principal place of business in Wisconsin.

9. Venue is proper in this District under 28 U.S.C. § 1400(b) because Defendant is a Wisconsin limited liability company with its principal place of business in this District and Defendant has committed acts of infringement in this District.

Facts

10. Hydra-Flex is the owner by assignment of the '743 Patent (a copy of which is attached hereto as **Exhibit A**), with full rights to pursue recovery of royalties or damages, including full rights to recover past and future damages, and injunctive relief for infringement of such patents. As set forth more fully below, Defendant has infringed the '743 Patent without authorization by Hydra-Flex.

11. In 2019, the U.S. Patent Office granted a request for *ex parte* reexamination of the '743 Patent.

12. On January 29, 2020, the U.S. Patent Office issued a Notice of Intent to Issue *Ex Parte* Reexamination Certificate. The U.S. Patent Office confirmed that original claims 1-13 of the '743 Patent were patentable and that newly presented claim 14 was patentable.

13. Hydra-Flex has complied with the marking requirements of 35 U.S.C. § 287 with respect to the '743 Patent.

14. The '743 Patent is valid, subsisting, and enforceable.

A. Hydra-Flex's '743 Patent

15. As described in the '743 Patent, it is often more convenient and less expensive to transport and store chemicals in concentrated form than in their diluted, working concentrations. Many chemicals are diluted before use, for example, with water. There are a variety of technologies designed to mix water with concentrated chemicals for working use. These

technologies address at least two challenges concentrated chemicals present—their corrosive effects and their viscosity (thickness).

16. Concentrated chemicals are often used in automated car washes. Some chemical mixing and delivery systems for car washes require extensive space. For example, a typical automated car wash might have a tank for a pre-mixed solution, multiple pumps, and valves associated with the variety of chemicals, detergents, and other rinsing or washing agents. Some car washes dilute chemicals with water and then store them for subsequent use by a spraying system, which demands even more space.

17. The operating environment for a typical automated car wash also presents unique challenges to an installed chemical delivery system. The often small, enclosed spaces and high moisture environment make it desirable to employ equipment and components that are resistant to the corrosive effects of humidity and the chemicals in use. Further, automated car washes are often located adjacent to service stations that may be staffed by only one employee. This individual may not always be available to provide service to the car wash if there are maintenance problems, so it is desirable to reduce the number of components in a system, especially those that are prone to wear, such as pumps and mechanical valves.

18. Inconsistent water pressure is another challenge for automated car washes. Liquid-level filling systems (commonly known as “HydroMinders”) dilute chemicals with water. These systems are susceptible to changes in water pressure resulting in changes to the concentration of the diluted product.

19. The inventors of the invention claimed in the '743 Patent saw the need for chemical delivery systems that occupy as little space as possible, require a minimum amount of

service, and accurately and consistently deliver an appropriate quantity of concentrated chemicals with appropriate dilution ratios.

20. The invention claimed in the '743 Patent achieves these goals and is directed to, without limitation, a dispensing system for use in automated car washes. The system is compact and requires minimal maintenance, while at the same time providing for consistent and accurate chemical dispensing.

B. Defendant's Infringement of the '743 Patent with Its MIZER-Brand Solution Distribution System

21. Defendant makes, uses, offers for sale, or sells the "Dual Panel and Dual Booster Pumps" installation of its MIZER-brand solution distribution system (the "Dual/Dual MIZER System").

22. Defendant's webpage promoting the Dual/Dual MIZER System touts that the products "use less product and save money" and describes how the Dual/Dual MIZER System can enable customers to "achieve even coverage and an intensity level to suit your requirements, all the while gaining maximum performance and show." See **Exhibit B**.

23. Defendant's promotional brochure for the Dual/Dual MIZER System contains photos showing the system and claims it offers "maximum flexibility and space savings" and "[r]educ[ed] chemical, water, and electrical consumption [to] maximize profitability." See **Exhibit C**.

24. The Dual/Dual MIZER System has these features because it practices Hydra-Flex's invention and infringes the '743 Patent.

25. The Dual/Dual MIZER System meets every limitation of at least independent claims 8 and 14 of the '743 Patent, either literally or under the doctrine of equivalents.

C. Defendant's Manufacture, Use, Sale, and Offering for Sale of Infringing Products

26. Defendant manufactures, uses, sells, and offers for sale the Dual/Dual MIZER System. For example, Defendant advertises the Dual/Dual MIZER System on its website. *See Exhibit B.*

27. Hydra-Flex informed Defendant of the existence of the '743 Patent shortly after its issuance. Defendant's infringement has been willful since at least when it learned the '743 Patent issued.

28. Defendant's primary response to Hydra-Flex's demands that Defendant stop its infringement of the '743 Patent has been to point to alleged prior art that Defendant contends is invalidating. This alleged prior art, however, is not invalidating, either alone or in combination.

29. Twice in 2020, Hydra-Flex requested that Defendant provide a detailed analysis pointing out where Defendant believes the elements of each claim of the '743 Patent can be found in the alleged prior art, including annotated references identifying with precision where Defendant believes the claim elements are present.

30. Defendant has not responded to Hydra-Flex's request for this detailed analysis.

Count I
Direct Infringement of U.S. Patent No. 8,887,743 (Dual/Dual MIZER System)
Pursuant to 35 U.S.C. § 271(a)

31. Hydra-Flex repeats and realleges paragraphs 1 through 30 hereof, as if fully set forth herein.

32. Defendant has been and is infringing the '743 Patent by making, using, selling, or offering for sale in the United States, including within this judicial district, Defendant's Dual/Dual MIZER System in violation of 35 U.S.C. § 271(a).

33. Defendant's infringement has been, and continues to be knowing, intentional, and willful.

34. Defendant's acts of infringement of the '743 Patent have caused and will continue to cause Hydra-Flex damages for which Hydra-Flex is entitled to compensation pursuant to 35 U.S.C. § 284.

35. Defendant's acts of infringement of the '743 Patent have caused and will continue to cause Hydra-Flex immediate and irreparable harm unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283. Hydra-Flex has no adequate remedy at law.

36. This case is exceptional and, therefore, Hydra-Flex is entitled to an award of attorneys' fees pursuant to 35 U.S.C. § 285.

Request for Relief

Based on the foregoing, Plaintiff requests a judgment in its favor and against Defendant:

1. Declaring that Defendant has infringed the '743 Patent;
2. Awarding Plaintiff damages in accordance with 35 U.S.C. § 284, including all damages adequate to compensate Plaintiff for Defendant's infringement, in no event less than a reasonable royalty, such damages to be determined by a jury, and additionally, ordering an accounting sufficient to adequately compensate Plaintiff, and that such damages be awarded to Plaintiff, together with interest, including prejudgment and postjudgment interest, and costs;
3. Declaring that Defendant has willfully and deliberately committed acts of patent infringement, and awarding Plaintiff enhanced damages in light of Defendant's willful infringement pursuant to 35 U.S.C. § 284;
4. Finding that this is an "exceptional case" under 35 U.S.C. § 285 and awarding Plaintiff the reasonable legal fees, costs and expenses that Plaintiff has incurred in prosecuting this action;

5. Preliminarily and permanently enjoining Defendant and its officers, directors, agent, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert therewith from further infringement of the '743 Patent; and
6. Awarding any and all other relief, at law or equity, that the Court deems just and proper.

Demand for Jury Trial

Plaintiff demands a trial by jury of all issues so triable by right under Rule 38 of the Federal Rules of Civil Procedure.

Dated: November 17, 2020

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