

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

WAUSAU PAPER TOWEL & TISSUE,  
LLC  
A Wisconsin limited liability company,

*Plaintiff,*

v.

NITTANY PAPER MILLS, INC.,  
A Pennsylvania corporation

*Defendant.*

Civil Action No. \_\_\_\_\_

**COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff, Wausau Paper Towel & Tissue, LLC, alleges as follows:

**THE PARTIES**

1. Plaintiff, Wausau Paper Towel & Tissue, LLC (“Wausau”), is a limited liability company organized and existing under the laws of Wisconsin and having a principal place of business at 100 Paper Place, Mosinee, Wisconsin.

2. On information and belief, Defendant, Nittany Paper Mills, Inc. (“Nittany Paper”), is a corporation organized and existing under the laws of Pennsylvania and having a principal place of business at 10 Duquesne Way, Lewistown, Pennsylvania 17044.

**JURISDICTION AND VENUE**

3. This is a case for patent infringement arising under the Acts of Congress relating to patents, 35 U.S.C. §§ 271; 282-285. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. Jurisdiction is proper because, on information and belief, Defendant transacts business in this judicial district including the sales and offering for sale of its products, has committed acts of infringement in this judicial district and Defendant has sufficient contacts with this judicial district to subject itself to the jurisdiction of this Court.

5. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400(b).

### **BACKGROUND**

6. Wausau is engaged in the business of manufacturing and selling various paper towel and tissue products, including paper roll products, to customers around the world.

7. On December 10, 2002, United States Patent No. 6,491,251 (“the ’251 patent”), entitled “Double Core Tissue Roll, Dispenser and Method” was duly and legally issued to Wausau as an assignee of the inventors, Mark Harrison Stanland, Steven M. Slye, Douglas E. Bagan, Alain P. Cotnoir, Randy A. Baughman, and Adam T. Elliott.

8. Wausau is the owner of the entire right, title and interest in and to the ’251 patent, and has been and continues to be the owner. A copy of the ’251 patent is attached as Exhibit A.

9. On November 18, 2003, United States Patent No. 6,648,267 (“the ’267 patent”), entitled “Double Core Tissue Roll, Dispenser and Method” was duly and legally issued to Wausau as an assignee of the inventors, Mark Harrison Stanland, Steven M. Slye, Douglas E. Bagan, Alain P. Cotnoir, Randy A. Baughman, and Adam T. Elliott.

10. Wausau is the owner of the entire right, title and interest in and to the ’267 patent, and has been and continues to be the owner. A copy of the ’267 patent is attached as Exhibit B.

11. These patents are directed at paper roll products with spaced core sections, including a process for making paper roll products with spaced core sections.

12. Nittany Paper is engaged in the business of making, importing, using, selling, and/or offering for sale paper roll products with spaced core sections. On information and belief, Nittany Paper purposefully makes paper roll products with spaced core sections, imports paper roll products with spaced cores that are manufactured abroad, and/or sells them throughout the United States. Photographs of a sample accused paper roll product with spaced core sections, branded “Nittany Paper 2 Ply Split Core Bath Tissue,” are attached hereto as Exhibit C.

13. On information and belief, the paper roll products with spaced core sections are made by unlawfully by performing the claimed processes as disclosed in the ’251 and ’267 patents in the United States and/or abroad.

14. On information and belief, Nittany Paper makes, uses, imports, sells, and/or offers for sale the paper roll products with spaced core sections manufactured by practicing the claimed processes in the ’251 and ’267 patents without permission from Wausau.

15. On information and belief, Nittany Paper infringes the ’251 and ’267 patents through the performance of the claimed process in the United States.

**COUNT I - INFRINGEMENT OF U.S. PATENT NO. 6,491,251**

16. Wausau restates the allegations set forth in paragraphs 1-15 and incorporates them herein by reference.

17. By virtue of its ownership of the ’251 patent, Wausau maintains the right to sue thereon and the right to recover for infringement thereof.

18. On information and belief, Nittany Paper has made, imported, sold, and/or used, without Wausau’s consent, paper roll products with spaced core sections by practicing the claimed invention of the ’251 patent in the United States and/or outside the United States. These activities constitute acts of infringement under 35 U.S.C. § 271(a)-(c), and/or (g).

19. On information and belief, Nittany Paper continues to make, import, use, and/or sell paper roll products with spaced core sections by practicing the claimed processes of the '251 patent itself or by importing paper roll products with spaced core sections made using the claimed processes of the '251 patent outside the United States.

20. Wausau has complied with the notice provision of the patent statutes by marking its packaging with the '251 patent.

21. Wausau has been damaged by Nittany Paper's infringement of the '251 patent and will continue to be damaged in the future unless Nittany Paper is permanently enjoined from infringing that patent.

**COUNT II - INFRINGEMENT OF U.S. PATENT NO. 6,648,267**

22. Wausau restates the allegations set forth in paragraphs 1-21 and incorporates them herein by reference.

23. By virtue of its ownership of the '267 patent, Wausau maintains the right to sue thereon and the right to recover for infringement thereof.

24. On information and belief, Nittany Paper has made, imported, sold, and/or used, without Wausau's consent, paper roll products with spaced core sections by practicing the claimed invention of the '267 patent in the United States and/or outside the United States. These activities constitute acts of infringement under 35 U.S.C. § 271(a)-(c), and/or (g).

25. On information and belief, Nittany Paper continues to make, import, use, and/or sell paper roll products with spaced core sections by practicing the claimed processes of the '267 patent itself or by importing paper roll products with spaced core sections made using the claimed processes of the '267 patent outside the United States.

26. Wausau has complied with the notice provision of the patent statutes by marking its packaging with the '267 patent.

27. Wausau has been damaged by Nittany Paper's infringement of the '267 patent and will continue to be damaged in the future unless Nittany Paper is permanently enjoined from infringing that patent.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment that:

A. United States Patent Nos. 6,491,251 and 6,648,267 were duly and legally issued, are valid and enforceable;

B. The Defendant Nittany Paper Mills, Inc. has infringed one or more claims of United States Patent Nos. 6,491,251 and 6,648,267;

C. The Defendant Nittany Paper Mills, Inc., its officers, agents, servants and employees, and those persons in active concert or participating with it be enjoined from further infringing United States Patent Nos. 6,491,251 and 6,648,267;

D. An accounting be had and the Plaintiff, Wausau Paper Towel & Tissue, LLC, be awarded damages arising out of the Defendant Nittany Paper Mills, Inc.'s infringement of United States Patent Nos. 6,491,251 and 6,648,267 with interest;

E. The Defendant Nittany Paper Mills, Inc. be permanently enjoined from continued manufacture, importation, use, offer for sale, or sale of the products that infringe the patent-in-suit;

F. This case be adjudged and decreed exceptional pursuant to 35 U.S.C. § 285 and that Plaintiff, Wausau Paper Towel & Tissue, LLC, be awarded its costs and attorney's fees in pursuing this action; and

G. Plaintiff, Wausau Paper Towel & Tissue, LLC, be awarded such other and further relief as this Court may deem necessary and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff, Wausau Paper Towel & Tissue, LLC, hereby demands a trial by jury of all issues so triable.

McNEES WALLACE & NURICK LLC

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*Attorneys for Plaintiff, Wausau Paper Towel & Tissue, LLC*

Date: December 11, 2012