

OCT 30 2003

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND DIVISION

2003 OCT 30 PM 3:45

LAUGHLIN PRODUCTS, INC.,

Plaintiff,

v.

GREAT LAKES ENGINEERING &
DESIGN

Defendant.

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1:03CV2213

CIVIL ACTION NO. _____

JUDGE POLSTER

MAG. JUDGE STREEPY
GERI M. SMITH, CLERK

ORIGINAL COMPLAINT

Plaintiff, LAUGHLIN PRODUCTS, INC., alleges:

1. This is an action for patent infringement, brought under the patent laws of the United States, 35 U.S.C. § 271 *et seq.*

PARTIES

2. Plaintiff, Laughlin Products, Inc., is a Texas corporation having its principal place of business at 3506 Blueberry Hill, Grapevine, Texas 76051 .

3. Defendant, Great Lakes Engineering & Design, is an Ohio corporation having its principal place of business at 5325 Naiman Pkwy, Suite C, Solon, Ohio 44139. Defendant can be served by serving its registered agent for receiving service of process, Scott Thomason, at 15512 Rowena, Maple Heights, Ohio 44137.

JURISDICTION AND VENUE

4. This is an action for patent infringement brought under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* Jurisdiction of the patent infringement claims is conferred

on this Court under 28 U.S.C. §§ 1331 and 1338 (a).

5. This Court has personal jurisdiction over the Athletic Club under Fed. R. Civ. P. 4 (k) (1) (A).

6. Venue is proper in this district under 28 U.S.C. § 1391 in that the unlawful activities herein alleged were performed in whole or in part in this district and in that Defendant resides and does business in this district.

FACTUAL BACKGROUND

7. Plaintiff is the owner of U.S. Patent No. 5,922,333 (“the ‘333 patent”) titled “System for Automatically Coating the Human Body.” The ‘333 patent describes and claims a system for spray applying self-tanning solutions and other compositions onto the human body. Plaintiff licenses others to manufacture and sell the system of the ‘333 patent to businesses and individuals. A true and correct copy of the ‘333 patent is attached hereto as Exhibit A.

8. Plaintiff is the owner of U.S. Patent No. 6,298,862 (“the ‘862 patent”) titled “Method of and Apparatus for Automatically Coating the Human Body: Fogging Technology.” The ‘862 patent describes and claims a method and apparatus for spray applying self-tanning solutions and other compositions onto the human body. Plaintiff licenses others to manufacture and sell the system of the ‘862 patent to businesses and individuals. A true and correct copy of the ‘862 patent is attached hereto as Exhibit B.

9. Plaintiff is the owner of U.S. Patent No. 6,474,343 (“the ‘343 patent”) titled “Method of and Apparatus for Automatically Coating the Human Body.” The ‘343 patent describes and claims a method and apparatus for spray applying self-tanning solutions and other compositions onto the human body. Plaintiff licenses others to manufacture and sell the system of the ‘343 patent to

businesses and individuals. A true and correct copy of the '343 patent is attached hereto as Exhibit C.

10. On information and belief, Defendant manufactures, sells, and offers for sale within this judicial district a system for spray applying self-tanning solutions and other compositions onto the human body ("The System").

COUNT ONE - PATENT INFRINGEMENT of U.S. PATENT NO. 6,298,862

11. Plaintiff incorporates herein paragraphs 7 through 10 above.

12. Defendant's manufacture, sale, and offer for sales of The System constitutes infringement of the '862 patent.

13. Plaintiff has suffered damages as a direct result of Defendant's infringement. Under 35 U.S.C. § 284, Plaintiff is entitled to damages adequate to compensate for the infringement, including lost profits, but not less than a reasonable royalty.

14. On information and belief, Defendant's infringement of the '862 patent is willful. Plaintiff is therefore entitled to enhanced damages under 35 U.S.C. § 284. Plaintiff also requests that the Court hold this to be an exceptional case.

COUNT TWO - PATENT INFRINGEMENT of U.S. PATENT NO. 6,474,343

15. Plaintiff incorporates herein paragraphs 7 through 10 above.

16. Defendant's manufacture, sale, and offer for sales of The System constitutes infringement of the '343 patent.

17. Plaintiff has suffered damages as a direct result of Defendant's infringement. Under 35 U.S.C. § 284, Plaintiff is entitled to damages adequate to compensate for the infringement, including lost profits, but not less than a reasonable royalty.

18. On information and belief, Defendant's infringement of the '343 patent is willful. Plaintiff is therefore entitled to enhanced damages under 35 U.S.C. § 284. Plaintiff also requests that the Court hold this to be an exceptional case.

COUNT THREE - INDUCEMENT OF PATENT INFRINGEMENT OF U.S. PATENT NOS.

5,922,333, 6,298,862, AND 6,474,343

19. Plaintiff incorporates herein paragraphs 7 through 10 above.

20. Defendant's sale and offer for sale of The System constitutes inducement of patent infringement under 35 U.S.C. § 271 (b).

21. As a direct and proximate result of Defendants' acts of inducing patent infringement, Plaintiff has been and continues to be injured and has sustained and will continue to sustain substantial damages in an amount not presently known.

COUNT FOUR - INJUNCTIVE RELIEF

22. Plaintiff reasserts the foregoing paragraphs 7 through 21.

23. Plaintiff will be irreparably harmed if Defendant's acts of patent infringement and inducing patent infringement continue. The balance of equities favors a preliminary injunction in favor of Plaintiff. Plaintiff therefore requests a preliminary injunction prohibiting Defendant and anyone else in active concert with it from making, selling or offering the system for sale or taking any other actions that would infringe the '862 or '343 patent or induce the infringement of the '333, '862, or '343 patent.

JURY DEMAND

24. Plaintiff requests a jury trial of all issues in this action so triable.

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

- A. that Defendant has infringed the '862 patent;
- B. that Defendant has infringed the '343 patent;
- C. that Defendant has induced the infringement of the '333 patent;
- D. that Defendant has induced the infringement of the '862 patent;
- E. that Defendant has induced the infringement of the '343 patent;
- F. entering a preliminary and, ultimately, a permanent injunction as requested above restraining Defendant and anyone else in active concert with it from making, selling or offering the system for sale or taking any other actions that would infringe or induce the infringement of the '333, '862, or the '343 patent.,
- G. entering an award of enhanced damages under 35 U.S.C. § 284;
- H. that this case is exceptional, and that Plaintiff therefore recover reasonable costs, expenses, and attorney's fees, under 35 U.S.C. § 285;
- I. that Plaintiff recover such other and further relief as this court may deem appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael A. O'Neil". The signature is written in a cursive style with a horizontal line underneath the name.

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