

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

MARCREST MANUFACTURING, INC.,)	
a Canadian Corporation,)	
)	DEMAND FOR JURY TRIAL
Plaintiff,)	
)	
v.)	
)	
GOD, FAMILY & COUNTRY LLC,)	
an Illinois Corporation,)	
)	
Defendant.)	

COMPLAINT FOR DECLARATORY JUDGMENT

MARCREST MANUFACTURING, INC., (hereinafter “MARCREST MANUFACTURING”), for its complaint against GOD, FAMILY & COUNTRY LLC (hereinafter “GFC”) states and alleges as follows:

Jurisdiction and Venue

1. This is an action for declaratory relief pursuant to the laws as set forth in Title 28 of the United States Code, and particularly, 28 U.S.C. §§ 2201 and 2202. Jurisdiction in this Court is based on 28 U.S.C. §§ 1331 and 1338(a). This Court has personal jurisdiction over GFC in view of its contacts with the forum. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400 because activities related to this controversy occurred and are occurring in this District.

The Parties

2. MARCREST MANUFACTURING is a Canadian corporation having its principal place of business located at 45010 Cardiff Road, R.R. #1 in Ethel, Ontario, Canada NOG ITO.

3. GFC is an Illinois corporation with a principal place of business at 34273 – 210th Avenue, Pittsfield, Illinois 62363.

Cause of Action for Declaratory Judgment

4. MARCREST MANUFACTURING seeks a declaratory judgment declaring that United States Patent Nos. 6,182,563; 6,397,738; and 6,655,266 (hereinafter the ‘563 Patent, the ‘738 Patent and the ‘266 Patent, respectively) were not obtained in a manner consistent with the provisions of Title 35, United States Code and are thus invalid and/or unenforceable. More specifically, the ‘563 Patent, the ‘843 Patent and the ‘266 Patent are invalid and/or unenforceable for failure to comply with one or more of the conditions for patentability set forth in 35 U.S.C. §§101, 102, 103 and 112. A copy of the ‘563 Patent, the ‘843 Patent, and the ‘266 Patent are attached hereto as Exhibits A, B and C.

5. MARCREST MANUFACTURING does not make, use or sell, and has not made, used or sold in the United States or elsewhere any product which infringes, or the use of which infringes, any valid or enforceable claim of the ‘563 Patent, the ‘738 Patent or the ‘266 Patent, either directly or indirectly, or contributorily, and MARCREST MANUFACTURING has not infringed or induced any other to infringe the ‘563 Patent, the ‘738 Patent or the ‘266 Patent.

6. GFC previously brought suit against MARCREST MANUFACTURING in United States District Court, District of Illinois, Central District. This suit alleged infringement of the '563 Patent, the '738 Patent or the '266 Patent. MARCREST MANUFACTURING filed a motion to dismiss or transfer that action to Detroit because the Court in Illinois does not have personal jurisdiction over MARCREST MANUFACTURING and venue is improper in Illinois. The motion to dismiss was granted. Therefore, an actual controversy still exists between MARCREST MANUFACTURING and GFC with respect to the validity, infringement and enforceability of the '563 Patent, the '738 Patent or the '266 Patent.

DEMAND FOR RELIEF

WHEREFORE, MARCREST MANUFACTURING requests the following relief:

- A. Enter a judgment or decree declaring that the '563 Patent, the '738 Patent and the '266 Patent are invalid and unenforceable;
- B. Enter a judgment or decree declaring that the '563 Patent, the '738 Patent and the '266 Patent are not infringed by any products currently or previously made, used, or sold by MARCREST MANUFACTURING;
- C. Enter a judgment or decree that it is the right of MARCREST MANUFACTURING and any buyers, sellers, or users of MARCREST MANUFACTURING, to continue to make, use, and sell such products, without any threat or other interference whatsoever against them by GFC or any person or entity in privity

with GFC, based on or arising out of the ownership of the '563 Patent, the '738 Patent, and the '266 Patent or any interest herein;

D. Enjoining GFC and any person or entity in privity with GFC from prosecuting or bringing or threatening to bring any action against MARCREST MANUFACTURING or any buyers, sellers, or users of MARCREST MANUFACTURING products for the manufacture, sale, or use of technology covered the '563 Patent, the '738 Patent, and the '266 Patent;

H. Award MARCREST MANUFACTURING its reasonable cost, expenses and attorney fees in this action, this being an exceptional case; and

I. Award MARCREST MANUFACTURING such other and further relief as this Court may deem just and equitable.

DEMAND FOR JURY TRIAL

MARCREST MANUFACTURING hereby demands a trial by jury as to all issues triable by jury

CARLSON, GASKEY & OLDS, P.C.

By: /s John E. Carlson

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Dated: February 25, 2009