

97210, and is doing business in this judicial district and elsewhere. Sulzer may be served with process by serving its attorney of record, Dean Hunt, Baker Hostetler, 1000 Louisiana, Suite 2000, Houston, TX 77002-5009.

II. JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, Title 35 United States Code, particularly §§ 271 and 281 and Title 28 United States Code § 1338(a). Venue is proper in this Court under Title 28 United States Code §§ 1391(b) and (c).

III. PATENT INFRINGEMENT

6. On June 18, 2002, United States Patent No. 6,405,992 (“the ‘992 patent”) was duly and legally issued for a “PregROUTED Baseplate for Supporting Rotating Machinery.” A true and correct copy of the ‘992 patent is attached hereto as Exhibit “A” and made a part hereof.

7. Kermit Palmer is the patentee of the ‘992 patent for all relevant times.

8. Stay-Tru is the exclusive licensee of Kermit Palmer for the ‘992 patent and possesses the right to exclusively practice the subject invention and the exclusive right to exclude others from making, using, or selling the ‘992 patent within the United States.

9. The ‘992 patent relates to a method for preparing and installing a baseplate for supporting rotating machinery. The novel method that is claimed includes pregrouting the baseplate before installation, curing the grout, and machining the mounting surfaces for the rotating machinery before field installation. This ensures precise alignment of the pump and motor shafts mounted on the baseplates.

10. The ‘992 patent underwent Reexamination by the United States Patent Office in March 2005. In May 2008, the United States Patent Office issued its Notice of Intent to Issue Ex

Parte Reexamination Certificates. All claims asserted against Defendants in this case retained their validity through Reexamination. The Reexamination Certificate is in the process of being published.

11. Upon information and belief, Flowserve has in the past and continues to manufacture pregouted baseplates, and machines the mounting surface after grouting and before installation, with full knowledge of the '992 patent and without a reasonable basis for believing it can use this process without infringing the '992 patent. In manufacturing and selling these baseplates, Flowserve has in the past and continues to infringe directly, by inducement, or by contributing to the infringement of one or more claims of the '992 patent.

12. Upon information and belief, Sulzer has in the past and continues to manufacture pregouted baseplates, and machines the mounting surface after grouting and before installation, with full knowledge of the '992 patent and without a reasonable basis for believing it can use this process without infringing the '992 patent. In manufacturing and selling these baseplates, Sulzer has in the past and continues to infringe directly, by inducement, or by contributing to the infringement of one or more claims of the '992 patent.

13. Defendants' infringing conduct has resulted in harm to Plaintiffs. Defendants are, thus, liable to Plaintiffs in an amount that adequately compensates for their infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

14. In addition, Defendants' infringing conduct has been willful thus entitling Plaintiffs to additional damages as provided for in 35 U.S.C. § 284.

15. Upon information and belief, Defendants will continue their infringement of the '992 patent unless enjoined by the Court. Defendants' infringing conduct causes Plaintiffs irreparable harm and will continue to cause such harm without the issuance of an injunction.

IV. JURY DEMAND

Plaintiffs hereby request a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court find in their favor and against Defendants, and that the Court grant Plaintiffs the following relief:

- a. Judgment that one or more claims of United States Patent No. 6,405,992 have been infringed, either literally and/or under the doctrine of equivalents, by Defendants and/or by others to whose infringement Defendants have contributed and/or by others whose infringement has been induced by Defendants;
- b. Judgment that Defendants account for and pay to Plaintiffs all damages to and costs incurred by Plaintiffs because of Defendants' infringing activities and other conduct complained of herein;
- c. That Defendants' infringement be found to be willful from the time Defendants became aware of the infringing nature of its services, and that the Court award additional damages for the period of such willful infringement pursuant to 35 U.S.C. § 284.
- d. That Plaintiffs be granted pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;
- e. That the Court declare this an exceptional case and award Plaintiffs their reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285;
- f. That Defendants be permanently enjoined from any further activity or conduct that infringes one or more claims of United States Patent No. 6,405,992; and
- g. That Plaintiffs be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: August 27, 2008.

Respectfully submitted,

/s/ Jonathan T. Suder
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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of August, 2008, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Southern District of Texas, Houston Division, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Jonathan T. Suder