

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

WILLIAM GUTHRIE, JR., an individual,
4625 Island Reef Drive
Wellington, Florida 33467

PLAINTIFF

Vs.

ANCHOR TOOL & DIE CO.,
an Ohio Corporation,
d/b/a ANCHOR MANUFACTURING
GROUP, INC.
12200 Brookpark Road
Cleveland, Ohio 44130

and

THE SELECT SECURITY SCREEN
COMPANY, LTD.,
an Ohio Corporation,
d/b/a CENTURION SECURITY SCREEN
COMPANY, LTD.
12200 Brookpark Road
Cleveland, Ohio 44130

DEFENDANTS

) CASE NO. _____

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) JUDGE: _____

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) MAGISTRATE: _____

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) **COMPLAINT FOR DECLARATORY**

) **JUDGMENT FOR PATENT**

) **INFRINGEMENT AND FOR**

) **INJUNCTIVE RELIEF**

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) **JURY TRIAL DEMANDED**

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Now comes Plaintiff, William Guthrie, ("GUTHRIE"), by and through counsel, Patricia A. Morris, who for his Complaint states the following regarding Anchor Tool & Die, Co. d/b/a Anchor Manufacturing Group, Inc. ("ANCHOR") and The Select Security Screen Company, Ltd. d/b/a/ Centurion Security Screen Company, Ltd. ("CENTURION") (hereinafter collectively referred to as "Defendants"):

PARTIES

1. Plaintiff GUTHRIE is a natural person and Florida resident, having a principal address at 4625 Island Reef Drive, Wellington, Florida 33467.

2. Defendant CENTURION is an OHIO corporation, having a principal place of business at 12200 Brookpark Road, Cleveland, Ohio 44130.

3. Upon information and belief, CENTURION sells assembled screens to the general public including residents of OHIO, dealers and throughout the United States.

4. Defendant ANCHOR is an OHIO corporation having a principal place of business at 12200 Brookpark Road, Cleveland, Ohio 44130.

5. Upon information and belief, ANCHOR sells assembled screens to the general public including residents of OHIO, dealers and throughout the United States.

6. Upon information and belief Defendants ANCHOR and CENTURION are related entities.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, United States Code, Title 35, 35 U.S.C. §§271, 281, 283-285. Subject matter jurisdiction is based upon 28 U.S.C. Sections 1331, 1332, 1338(a) and 1367. Venue is proper in this jurisdiction pursuant to 28 U.S.C. Sections 1391 and 1400.

8. CENTURION is doing business in this district, solicits orders and sells its products in this district, offers for sale in this district and has committed acts of patent infringement of GUTHRIE's patent sued upon herein in this district by making, offering for sale and selling in this district products covered by GUTHRIE's patent.

9. ANCHOR is doing business in this district, solicits orders and sells its products in this district, offers for sale in this district and has committed acts of patent infringement of GUTHRIE's patent sued upon herein in this district by making, offering for sale and selling in this

district products covered by GUTHRIE's patent.

10. All Defendants reside in the state of Ohio.

11. The Plaintiff resides in the state of Florida.

FACTUAL BACKGROUND

12. On October 12, 1999, inventor Mr. William J. Guthrie, Jr. filed U.S. patent application Ser. No. 09/415,633 ("the '633 application"), entitled "HURRICANE RESISTANT SCREEN SYSTEM".

13. On July 24, 2001, United States Patent No. 6,263,949 ("the '949 patent"), entitled "HURRICANE RESISTANT SCREEN SYSTEM," was duly and legally issued on the '633 application. A copy of the '949 patent is attached as **Exhibit "A"**.

14. The '949 patent relates to a hurricane resistant screen system for covering structure openings, such as windows and doors. The system generally includes a frame having a screen mounting portion for receiving an edge of a screen and secured by a retainer bar. The assembly is of heavy-duty construction to resist high impact forces caused by hurricane force winds and accompanying debris.

15. GUTHRIE owns all right, title, and interest in and to the '949 patent.

16. On May 21, 2003, GUTHRIE entered into an Exclusive License Agreement for North America with ANCHOR MANUFACTURING GROUP, INC., (ANCHOR) wherein ANCHOR was granted right and license to manufacture, market, and sell products embodying inventions covered by the '949 patent ("the LICENSE AGREEMENT"). A copy of the LICENSE AGREEMENT is attached hereto as **Exhibit "B"**.

17. Upon information and belief, Defendants manufactured and sold, and continues to manufacture and sell, products falling within the scope of the '949 patent under the following

model designations: (a) Hurricane Series 4000 Outswing Door Screen; and (b) Hurricane Series 7000 Window Screen. Copies of Notice of Acceptance documents from Miami Dade Building Code Compliance Office (BCCO), Product Control Division, for the Hurricane Series 400 and 7000 products are attached hereto as **Exhibit "C"**.

18. Pursuant to the terms of the LICENSE AGREEMENT, ANCHOR was obligated to pay GUTHRIE a royalty of 5.0% of Net Sales realized from the sale and service of products falling under the '949 patent, including a lump sum royalty of \$100,000.00 when sales exceeded a threshold level of \$1,000,000.00.

19. ANCHOR has failed to pay GUTHRIE royalties due.

20. Pursuant to the terms of the LICENSE AGREEMENT, ANCOR was obligated to remit to GUTHRIE, on a quarterly basis, written statements of net sales and royalty payments.

21. ANCHOR has failed to remit to GUTHRIE all statements of net sales due as required by the LICENSE AGREEMENT.

22. Pursuant to the terms of the LICENSE AGREEMENT, ANCHOR was obligated to keep accurate books and records of account related to sales of the products, and to allow GUTHRIE to examine and audit such books and records upon written request.

23. GUTHRIE has provided ANCHOR with written request to examine and audit said books and records.

24. ANCHOR has failed to allow GUTHRIE to examine or audit said books and records.

25. Prior to September 20, 2004, GUTHRIE provided ANCHOR with written Notice of Termination of the License Agreement due to material breach of the LICENSE AGREEMENT by ANCHOR, and reiterated said Notice by correspondence from GUTHRIE's

counsel dated September 20, 2004.

26. The LICENSE AGREEMENT terminated on or about September 20, 2004.

27. Upon information and belief, ANCHOR has continued to manufacture, market, and sell products embodying inventions that infringe the '949 patent without authorization since September 20, 2004, and said activity is believed to continue to this day.

28. Upon information and belief, Defendants have realized revenue in excess of \$1,000,000.00 from the sale and service of products falling under the '949 patent.

29. Upon information and belief, Defendants continue to infringe the '949 patent by manufacturing, marketing, and selling, products falling within the scope of the '949 patent.

30. The '949 patent is valid and enforceable, and all required maintenance fees have been paid.

COUNT I

DIRECT PATENT INFRINGEMENT – CENTURION and ANCHOR

31. Plaintiff repeats and realleges the Paragraphs 1 through 30 of this complaint as if fully set forth herein.

32. Defendant CENTURION has a financial interest and fiduciary duty to GUTHRIE.

33. Defendant CENTURION promoted the sale of the infringing products despite its actual knowledge that the sales infringed the '949 patent.

34. Defendant ANCHOR has a financial interest and fiduciary duty to GUTHRIE.

35. Defendant ANCHOR promoted the sale of the infringing products despite its actual knowledge that the sales infringed the '949 patent.

36. CENTURION and ANCHOR, since the issuance of the '949 patent, have infringed and are presently infringing the '949 patent by the unauthorized making, using, selling,

importing and/or offering to sell within the United States, and within the Judicial District, screen components that infringe one or more claims of invention of the '949 patent and will continue to do so unless enjoined by this Court.

37. The infringement by CENTURION since the issuance of the '949 patent at all times has been willful and deliberate, and despite actual knowledge of the issuance of the '949 patent, and specific notice of their infringement, CENTURION has refused to terminate sales of the infringing products.

38. The infringement by ANCHOR since the issuance of the '949 patent at all times has been willful and deliberate, and despite actual knowledge of the issuance of the '949 patent, and specific notice of their infringement, ANCHOR has refused to terminate sales of the infringing products.

39. CENTURION have by their aforementioned infringement of the '949 patent unlawfully derived substantial profits and gains that they would otherwise have not received.

40. ANCHOR have by their aforementioned infringement of the '949 patent unlawfully derived substantial profits and gains that they would otherwise have not received.

41. GUTHRIE has been damaged and continues to be damaged as a result of the infringing activities of CENTURION and ANCHOR.

42. GUTHRIE has no adequate remedy at law.

COUNT II

WILLFUL INFRINGEMENT UNDER 35 U.S.C. § 284

43. The allegations of Paragraphs 1-30 and 32 - 42 above are repeated and realleged as if fully set forth herein.

44. Defendants at all relevant times have had prior knowledge of the '949 patent since at least as early as May 21, 2003.

45. Defendants made, marketed and sold the infringing products after having full and actual knowledge of the termination of the License Agreement, and despite receiving notice from GUTHRIE of GUTHRIE's objection to Defendants' continued infringement.

46. Defendants' past and continuing infringement has been willful, intentional, and deliberate.

47. Pursuant to 35 U.S.C. § 284, GUTHRIE is entitled to enhanced damages, up to tripling of damages, for the willful infringement of the '949 patent.

48. GUTHRIE has been damaged as a result of CENTURION and ANCHOR infringing activities.

49. GUTHRIE has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, GUTHRIE demands judgment as follows:

(a) Declaring that Defendants ANCHOR and CENTURION have directly infringed one or more claims of the '949 patent;

(b) Declaring that Defendants ANCHOR and CENTURION have willfully infringed one or more claims of the '949 patent;

© Deeming this to be an "exceptional" case within the meaning of 35 U.S.C. § 285, entitling plaintiff to an award of its reasonable attorney fees, expenses and costs in this action; and

(d) Preliminarily and permanently enjoining Defendants and their respective officers, agents, servants, employees, and attorneys, and those persons in active concert or participation

with them who receive actual notice of the order by personal service or otherwise, from committing further acts of infringement under 35 U.S.C. § 271 of any one or more claims of the '949 patent pursuant to 35 U.S.C. § 283;

(e) Awarding plaintiff damages in accordance with 35 U.S.C. § 284;

(f) Awarding plaintiff its costs in connection with this action; and

(g) Awarding plaintiff such other and further relief as this Court may deem to be just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, William Guthrie, Jr., hereby demands a jury trial in this action on all Counts of the Complaint so triable.

Respectfully submitted,

/s/Patricia A. Morris
PATRICIA A. MORRIS, #0043570
COUNSEL FOR PLAINTIFF
3770 Starrs Centre Drive
Canfield, Ohio 44406
(330) 533-9660
(330) 533-2765 (FAX)
pmkm5k@aol.com

CERTIFICATION OF SERVICE

A true and correct copy of the foregoing Complaint for Declaratory Judgment for Patent Infringement and for Injunctive Relief was mailed, with all attachments, by U.S. Certified Mail to the following:

ANCHOR TOOL & DIE CO.,
d/b/a ANCHOR MANUFACTURING
GROUP, INC.
12200 Brookpark Road
Cleveland, Ohio 44130

THE SELECT SECURITY SCREEN
COMPANY, LTD.,
d/b/a CENTURION SECURITY SCREEN
12200 Brookpark Road
Cleveland, Ohio 44130

/s/Patricia A. Morris
PATRICIA A. MORRIS, #0043570
COUNSEL FOR PLAINTIFF