

U. S. DISTRICT COURT
WESTERN DISTRICT ARKANSAS
FILED

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CHRIS R. JOHNSON, CLERK

BY DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS**

ADVANCED CNC TECHNOLOGIES, INC.)

Plaintiff,)

v.)

COMPOSITE CONCEPTS COMPANY)

Defendant.)

CIVIL ACTION NO. 10-2023

COMPLAINT FOR DECLARATORY JUDGMENT

COMES NOW the plaintiff, Advanced CNC Technologies, Inc. ("Advanced") and for its complaint for declaratory judgment against Composite Concepts Company ("Composite") states that:

1. The plaintiff is an Arkansas corporation with its principal place of business located in Fort Smith, Sebastian County, Arkansas.
2. The defendant is an Ohio corporation with its principal place of business located in Chagrin Falls, Cuyahoga County, Ohio.
3. This complaint seeks a declaratory judgment to settle an actual controversy between Advanced and Composite with respect to the alleged infringement

of United States Letters Patent No. 5,945,010 ("010 Patent") (A copy is attached hereto as Exhibit "A").

4. This case arises under the patent statutes of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction under 28 U.S.C. § 1338. This Court also has jurisdiction of this proceeding under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

5. Venue is proper under 28 U.S.C. § 1391 as Advance resides in this district and as Composite does business in this district. Specifically, Composite earns royalties and other income from the sale of wire in this district, which wire is covered by licenses or other agreements to use the 010 Patent.

6. Additionally, venue is proper in this district because a substantial part of the property, evidence and witnesses relating to the case may be found in this district. Advanced's principal place of business and its headquarters are in Fort Smith. Its management and employees, some of whom may be witnesses in the case, reside in and around Fort Smith. Finally, some of the physical evidence relating to the case is located in Fort Smith.

7. Composite claims to be the holder of the 010 Patent, which contains claims for metal wire with a coating of discontinuous gamma phase particles.

8. Advanced is in the business of selling wire at wholesale. For several years, Advanced has imported a type of wire, known as Aero R+ ("R+ Wire"), from YOIN, a Taiwanese company which uses the name of JBM Wire Group Co., Ltd. ("JBM") for its wire exported to the United States. Advanced has marketed the R+ Wire under the name Maxi Cut Star 900 and 520 Wire.


9. It is the information and belief of Advanced that the R+ Wire has a coating of continuous beta phase particles.

10. The 010 Patent has not been and is not being infringed upon by Advanced as it has not sold wire or other products or committed any act that comes within the scope of any of the claims of the 010 Patent.

11. Nevertheless, Composite has alleged that the R+ Wire infringes on the 010 Patent, has demanded that Advanced cease selling the R+ Wire and retrieve the inventory of R+ Wire from Advanced's customers, and has threatened litigation against Advanced. (Copies of the correspondence from Composite's counsel are attached as Exhibits "B", "C" and "D", respectively.)

WHEREFORE, Advanced requests that the Court issue a judgment which finds and declares that Advanced has not infringed upon the 010 Patent; awards Advanced its costs and a reasonable attorney's fee, as provided by Section 285 of the Patent Act; and grants Advanced all other proper relief to which it is entitled.

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