

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. \_\_\_\_\_

CAUGHT FISH ENTERPRISES, LLC, a Colorado limited liability company, and  
METAL ROOF INNOVATIONS, LTD., a Colorado corporation,

Plaintiffs,

v.

ACTION MANUFACTURING, LLC, a Colorado limited liability company,  
RIDDELL & COMPANY, INC., a Colorado corporation,  
RICHARD A. RIDDELL, an individual, and  
PAUL RIDDELL, an individual,

Defendants.

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**COMPLAINT AND JURY DEMAND**

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Plaintiffs Caught Fish Enterprises, LLC ("Caught Fish") and Metal Roof Innovations, Ltd. ("MRI") state and allege as follows for their Complaint against Defendants Action Manufacturing, LLC ("Action"), Riddell & Company, Inc. ("Riddell"), Richard A. Riddell ("R. Riddell") and Paul Riddell ("P. Riddell"):

**I. PARTIES**

1. Caught Fish is a Colorado limited liability company with its principal place of business in Colorado Springs, Colorado. Caught Fish is the owner of U.S. Patent Nos. 5,228,248 ("the '248 patent"), 5,715,640 ("the '640 patent"), 5,983,588 ("the '588 patent") and 6,164,033 ("the '033 patent") by assignment from Robert M.M. Haddock.

2. MRI is a Colorado corporation with its principle place of business in Colorado Springs, Colorado. MRI is a licensee of the '248 patent, the '640 patent, the '588 patent and the '033 patent. (Caught Fish and MRI will hereinafter be collectively referred to as "Caught Fish.")

3. Action is a limited liability company formed under the laws of Colorado, having a principal place of business at 5901 S. Quebec, Englewood, Colorado 80111. Upon information and belief, Action manufactures mounting devices used on metal roofs.

4. Riddell is a corporation formed under the laws of Colorado, having a principal place of business at 5901 S. Quebec, Englewood, Colorado 80111. Upon information and belief, Riddell markets, offers for sale and sells mounting devices used on metal roofs.

5. R. Riddell is an individual having a business address of 5901 S. Quebec, Englewood, Colorado 80111. At all times relevant hereto, upon information and belief, R. Riddell has been an officer of at least one of Action and Riddell. As an officer, R. Riddell has contributed to, aided and abetted Action's manufacture, and Riddell's distribution and sale of a number of products, including mounting devices used on metal roofs.

6. P. Riddell is an individual having a business address of 5901 S. Quebec, Englewood, Colorado 80111. At all times relevant hereto, upon information and belief, P. Riddell has been an officer of at least one of Action and Riddell. As an officer, P. Riddell has contributed to, aided and abetted Action's manufacture, and Riddell's distribution and sale of a number of products, including mounting devices used on metal roofs.

## **II. SUBJECT MATTER JURISDICTION**

7. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 101 *et seq.*

8. This Court has subject matter jurisdiction over these patent infringement claims pursuant to 28 U.S.C. §§ 1331 and 1338.

## **III. PERSONAL JURISDICTION AND VENUE**

9. Action manufactures a variety of products and devices used on or in connection with the installation and/or maintenance of metal roofs in Colorado, such roofs including standing metal seams. Upon information and belief, Action has manufactured within the State of Colorado products that fall within one or more claims of the patents asserted herein.

10. Riddell solicits orders for Action's metal roof products and distributes print advertisements related thereto in Colorado. Upon information and belief, Riddell has sold and continues to sell metal roofing products and services throughout the country, including Colorado, and has a regular and established business presence within the State of Colorado. Further, upon information and belief, Riddell has sold and/or offered to sell within the State of Colorado products that fall within one or more claims of the patents asserted herein.

11. Upon information and belief, as an officer of at least one of Action and Riddell, R. Riddell has regularly and systematically conducted business in Colorado and has manufactured, offered to sell and/or has sold products accused of infringing one or more of the patents asserted herein in Colorado.

12. Upon information and belief, as an officer of at least one of Action and Riddell, P. Riddell has regularly and systematically conducted business in Colorado and has manufactured, offered to sell and/or has sold products accused of infringing one or more of the patents asserted herein in Colorado.

13. Action, Riddell, P. Riddell and P. Riddell (collectively "Action") are subject to personal jurisdiction in this judicial district.

14. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400.

#### **IV. GENERAL ALLEGATIONS**

15. Caught Fish is in the business of developing, manufacturing, marketing and selling mounting devices for securing various apparatus to the standing seams of metal roofs.

##### **A. The '248 Patent**

16. On July 20, 1993, the United States Patent and Trademark Office ("USPTO") granted the '248 patent for a "Mounting Device for Building Surfaces," naming Robert M.M. Haddock as the inventor.

17. Among other things, the '248 patent describes and claims a novel mounting assembly for controlling the movement of ice upon a roof. The patent is generally directed to attaching mounting devices to standing metal roof seams, attaching a rod between the mounting devices. The monitoring device is generally comprised of a clamp that includes a mounting body having a slot extending therethrough. In operation, the clamp's slot is positioned over/about a standing seam on a metal roof and frictionally secured thereto.

18. Caught Fish manufactures, markets and sells devices incorporating the inventions disclosed and claimed in the '248 patent.

**B. The '640 Patent**

19. On February 20, 1998, the United States Patent and Trademark Office ("USPTO") granted the '640 patent for a "Mounting Device for Building Surfaces," naming Robert M.M. Haddock as the inventor.

20. Among other things, the '640 patent describes and claims a novel mounting assembly for controlling uplift of a metal roof. The patent is generally directed to attaching mounting devices to standing metal roof seams, attaching a cross member between the mounting devices and then attaching a clip on the cross member to help prevent uplift of the metal roof. The device is generally comprised of a clamp that includes a mounting body having a slot extending therethrough. In operation, the clamp's slot is positioned over/about a standing seam on a metal roof and frictionally secured thereto.

21. Caught Fish manufactures, markets and sells devices incorporating the inventions disclosed and claimed in the '640 patent.

**C. The '588 Patent**

22. On November 16, 1999, the United States Patent and Trademark Office ("USPTO") granted the '588 patent for a "Mounting Device for Building Surfaces," naming Robert M.M. Haddock as the inventor.

23. Among other things, the '588 patent describes and claims a novel mounting assembly for controlling uplift of a metal roof. The patent is generally directed to attaching

mounting devices to standing metal roof seams, attaching a cross member between the mounting devices and then attaching a clip on the cross member to help prevent uplift of the metal roof.

The device is generally comprised of a clamp that includes a mounting body having a slot extending therethrough. In operation, the clamp's slot is positioned over/about a standing seam on a metal roof and frictionally secured thereto.

24. Caught Fish manufactures, markets and sells devices incorporating the inventions disclosed and claimed in the '588 patent.

**D. The '033 Patent**

25. On December 26, 2000, the USPTO granted the '033 patent for a "Clamp for Securing Assemblies Other Than Snow Retention Device to a Raised Metal Seam Roof," naming Robert M.M. Haddock as the inventor.

26. Among other things, the '033 patent describes and claims a novel device for securing various assemblies to a standing seam on a metal roof. In particular, at least one of the claimed devices is comprised of a body including a slot which can operatively be frictionally attached to a standing metal roof seam. The body also may be operatively attached to virtually any other assembly, other than a snow retention device.

27. Caught Fish manufactures, markets and sells devices incorporating the inventions disclosed and claimed in the '033 patent.

**E. Action's Infringing Products**

28. Action is making, using, offering for sale, and selling within the United States systems used for preventing uplift of a metal roof. The systems include clamps that are comprised of

a body, into which is formed a slot designed to accept the profile of a standing metal roof seam. In operation, the clamps are placed over the standing metal roof seam and frictionally secured to the standing metal roof seams. The body of the clamp also includes a structure into which may be securely mounted a rod, that is used to receive a bar that engages the metal roof to prevent uplift.

29. Upon information and belief, R. Riddell and P. Riddell have aided, abetted, contributed to and induced Action and Riddell to make, use, offer for sale and sell within the United States, including Colorado, the products described above. Upon information and belief, R. Riddell and P. Riddell have the authority and power to control all activities of Action and Riddell including the activities of manufacture, distribution and sale of the products described above.

30. Prior to January 2006, Caught Fish put Action on notice of its various intellectual property, including the '248, '640, '588 and '033 patents and of their infringement of those patents.

**V. FIRST CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 5,228,248)**

31. Caught Fish incorporates paragraphs 1 through 30 as though fully set forth herein.

32. Both prior to and following January 2006, Action contributed to, and/or induced the infringement of and/or infringed the '248 patent by making, using, selling and/or offering for sale of at least the products described above in the United States, all without license or authority from Caught Fish, in violation of 35 U.S.C. §§ 271(a), (b) and/or (c).

33. Action's infringing acts have been willful and wanton and in reckless disregard for Caught Fish's rights, entitling Caught Fish to a trebling of its actual damages under 35 U.S.C. § 284,

and making this an exceptional case for which attorney's fees should be awarded pursuant to 35 U.S.C. § 285.

34. As a result of Action's infringing acts, Caught Fish has suffered and will continue to suffer irreparable injury for which there is no adequate remedy at law, entitling it to injunctive relief under 35 U.S.C. § 283.

**VI. SECOND CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 5,715,640)**

35. Caught Fish incorporates paragraphs 1 through 34 as though fully set forth herein.

36. Both prior to and following January 2006, Action contributed to, and/or induced the infringement of and/or infringed the '640 patent by making, using, selling and/or offering for sale of at least the products described above in the United States, all without license or authority from Caught Fish, in violation of 35 U.S.C. §§ 271(a), (b) and/or (c).

37. Action's infringing acts have been willful and wanton and in reckless disregard for Caught Fish's rights, entitling Caught Fish to a trebling of its actual damages under 35 U.S.C. § 284, and making this an exceptional case for which attorney's fees should be awarded pursuant to 35 U.S.C. § 285.

38. As a result of Action's infringing acts, Caught Fish has suffered and will continue to suffer irreparable injury for which there is no adequate remedy at law, entitling it to injunctive relief under 35 U.S.C. § 283.

**VII. THIRD CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 5,983,588)**

39. Caught Fish incorporates paragraphs 1 through 38 as though fully set forth herein.



40. Both prior to and following January 2006, Action contributed to, and/or induced the infringement of and/or infringed the '588 patent by making, using, selling and/or offering for sale of at least the products described above in the United States, all without license or authority from Caught Fish, in violation of 35 U.S.C. §§ 271(a), (b) and/or (c).

41. Action's infringing acts have been willful and wanton and in reckless disregard for Caught Fish's rights, entitling Caught Fish to a trebling of its actual damages under 35 U.S.C. § 284, and making this an exceptional case for which attorney's fees should be awarded pursuant to 35 U.S.C. § 285.

42. As a result of Action's infringing acts, Caught Fish has suffered and will continue to suffer irreparable injury for which there is no adequate remedy at law, entitling it to injunctive relief under 35 U.S.C. § 283.

**VIII. FOURTH CLAIM FOR RELIEF**  
**(Infringement of U.S. Patent No. 5,164,033)**

43. Caught Fish incorporates paragraphs 1 through 42 as though fully set forth herein.

44. Both prior to and following January 2006, Action contributed to, and/or induced the infringement of and/or infringed the '033 patent by making, using, selling and/or offering for sale at least the products described above, all without license or authority from Caught Fish, in violation of 35 U.S.C. §§ 271(a), (b) and/or (c).

45. Action's infringing acts have been willful and wanton and in reckless disregard for Caught Fish's rights, entitling Caught Fish to a trebling of its damages under 35 U.S.C. § 284, and

making this an exceptional case for which attorney's fees should be awarded pursuant to 35 U.S.C. § 285.

46. As a result of Action's infringing acts, Caught Fish has suffered and will continue to suffer irreparable injury for which there is no adequate remedy at law, entitling it to injunctive relief under 35 U.S.C. § 283.

WHEREFORE, Plaintiff Caught Fish prays that this Court enter its Judgment and enter an Order:

1. Preliminarily and permanently enjoining Action, Riddell, R. Riddell and P. Riddell and their officers, agents, servants, employees, successors, assigns, and all persons in active concert with any of them, from infringing and/or inducing others to infringe and/or contributing to the infringement of U.S. Patent Nos. 5,491,931, 5,715,640, 5,983,588 and/or 6,164,033;

2. Awarding to Caught Fish monetary damages in an amount equal to the greater of Caught Fish's lost profits or a reasonable royalty pursuant to 35 U.S.C. § 284, and trebling those damages by reason of the willful, wanton, and deliberate nature of Action's, Riddell's, R. Riddell's and P. Riddell's infringement, also pursuant to 35 U.S.C. § 284;

3. Awarding to Caught Fish its reasonable attorney's fees pursuant to 35 U.S.C. § 285;

4. Awarding to Caught Fish its costs incurred in this action, including expert witness fees; and

5. Awarding to Caught Fish prejudgment interest, post judgment interest and any such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Caught Fish hereby demands a trial by jury as to all issues so triable.

Dated: February 3, 2006

Respectfully submitted,

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