

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Universal Building Systems, Inc.

Plaintiff,

Civil No. _____

v.

LNL Building Products Inc.
d/b/a Superior Stairparts

Defendants

COMPLAINT FOR PATENT INFRINGEMENT

NATURE OF THE ACTION

Now comes Universal Building Systems, Inc., Plaintiff, to aver and show the Court as follows:

THE PARTIES

1. Plaintiff Universal Building Systems, Inc. (“UBS”) is a corporation organized and existing under the laws of the State of South Dakota, having its principal place of business in Minneapolis, Minnesota.

2. Defendant LNL Building Products Inc. (“LNL”) is a corporation organized and existing under the laws of the State of Georgia, having its principal place of business in Buford, Georgia. LNL does business in the state of Minnesota and has shipped products that infringe patents owned by UBS to at least one customer in the state of Minnesota.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under Title 35 of the United States Code. Accordingly, this Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1338(a).

4. This Court has personal jurisdiction over the Defendant. On or about August 23, 2006, LNL purposely availed itself of the privilege of doing business in the state of Minnesota by shipping newel bolt kits through interstate commerce into the state of Minnesota. In doing so LNL infringed UBS' patent knowing that the impact of such infringement would be felt in Minnesota.

Venue is proper in this jurisdiction pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and/or 1400(b).

COUNT I – DIRECT INFRINGEMENT IN VIOLATION OF 35 U.S.C. § 271(a)

5. Plaintiff, Universal Building Systems, Inc. is an owner of the United States Patent No. 5,095,668 entitled "Newel Post Fastening System" (hereinafter the "O'Brien Patent"). A copy of the O'Brien Patent is attached as Exhibit A.

6. The O'Brien Patent was granted by the U.S. Patent and Trademark Office based upon an application filed on October 30, 1990 covering an invention made by the named inventors, Daniel K. O'Brien and Jeffery O. Oland.

7. The invention covered by the O'Brien Patent is an apparatus or kit for fastening a newel post of a railing to a floor, landing or stair tread. The apparatus or kit includes a straight, double-ended bolt having lag threads at one end and screw threads at the other end of the bolt. When the kit is used, the lag threads are screwed downwardly into the floor, landing or stair tread. The other end of the bolt is extended through a hole in the lower end of the newel post until it reaches an intersecting transverse hole in the newel post. A washer is then inserted through the transverse hole and placed over the end

of the bolt. A nut is then screwed onto the screw threads of the bolt and tightened to hold the newel post in position with respect to the floor, landing or stair tread.

8. Defendant LNL manufactures, offers for sale or sells an apparatus or kit for fastening the newel post or railing to a floor, landing or stair tread. Exhibit B to this Complaint is a print out from LNL's webpage advertising LNL's infringing newel post fastening kit. In 2003, UBS became concerned that LNL might be manufacturing, using or selling a kit which infringed the claims of the O'Brien Patent. Mr. Daniel O'Brien set up a meeting with George Liu to discuss UBS' newel post fastening kit. At this meeting Mr. O'Brien delivered samples of the UBS newel post fastening kit. These samples were clearly marked with the O'Brien Patent's patent number. In addition, Mr. O'Brien informed Mr. Liu that UBS had successfully enforced the O'Brien Patent against other infringers, and would aggressively enforce its patent rights against other infringers. In response, Mr. Liu specifically stated that it was not producing newel post fastening kits, and that it had no intent to sell that type of product.

9. Just as described and claimed in the O'Brien Patent, the apparatus or kits sold by LNL include a straight, double-ended bolt having lag threads at one end and screw threads at the other end of the bolt. When the kit is used, the lag threads are screwed downwardly into the floor, landing or stair tread. The other end of the bolt is extended through a hole in the lower end of the newel post until it reaches an intersecting transverse hole in the newel post. A washer is then inserted through the transverse hole and placed over the end of the bolt. A nut is then screwed onto the screw threads of the bolt and tightened to hold the newel post in position with respect to the floor, landing or stair tread. Exhibit C is a photograph showing one of the infringing kits sold by LNL to a customer in Minnesota, namely U.S. Stairs in Carver, Minnesota.

10. Defendant LNL is currently making, using or selling, and will, unless enjoined, continue to make, use or sell, newel post fastening devices which fall within the scope of one or more

claims of the O'Brien Patent. These activities are being done without the consent of UBS and, therefore, constitute direct infringement of the O'Brien Patent in violation of 35 U.S.C. § 271.

11. On information and belief, Defendant LNL's acts of infringement are willful and deliberate. Such acts will continue unless enjoined by this Court.

COUNT II – INDUCEMENT OF INFRINGEMENT IN VIOLATION OF 35 U.S.C. 271(b)

12. Plaintiff restates the allegations as set forth in Paragraphs 1-11 of this Complaint.

13. Anyone using components of the kit sold by LNL would infringe one or more claims of the O'Brien Patent.

14. Defendant has, therefore, actively induced infringement of the patent in violation of 35 U.S.C. § 271(b) by supplying its kits for fastening newel posts and LNL knew or should have known that taking such action would induce direct infringement.

15. On information and belief, Defendant LNL's acts of infringement are willful and deliberate. Such acts will continue unless enjoined by this Court.

COUNT III -- CONTRIBUTORY INFRINGEMENT IN VIOLATION OF 35 U.S.C. § 271(c)

16. Plaintiff restates the allegations set forth in Paragraphs 1-15 of this Complaint.

17. The newel post fastening kits made, used and sold by the Defendant, and certain parts that comprise such kits, are especially made or especially adapted for use in infringement of the O'Brien Patent.

18. The components of the newel post fastening kits (and the kits themselves) made, used and sold by Defendant constitute components for use in practicing the invention covered by the O'Brien Patent.

19. The components of the newel post fastening kits (and the kits themselves) made, used and sold by the Defendant constitute a material part of the invention claimed in the O'Brien Patent.

20. The components of the newel post fastening kits (and the kits themselves) made, used and sold by the Defendant are not a staple article of commerce or a commodity suitable for non-infringing use.

21. Defendant's manufacture, use and sale of newel post fastening kits and components of those kits constitutes contributory infringement of the O'Brien Patent under 35 U.S.C. § 271(c).

22. On information and belief, Defendant LNL's acts of infringement are willful and deliberate. Such acts will continue unless enjoined by this Court.

WHEREFORE, Plaintiffs request judgment be entered in their favor and that the following relief be granted:

1. That LNL Building Products Inc. have infringed U.S. Patent No. 5,095,668;
2. That LNL Building Products Inc.'s infringement of the '668 Patent has been deliberate and willful;
3. That LNL Building Products Inc., their officers, agents, employees, representatives, successors and assigns and those acting in privity or concert with them, be preliminarily and permanently enjoined from further infringement of the '668 Patent;
4. That LNL Building Products, Inc. account for and pay to Universal Building Systems, Inc. all damages and costs caused by LNL Building Products Inc.'s infringement of the '668 Patent, and that such damages be trebled in view of the deliberate and willful nature of the infringement of the '668 Patent;
5. That the Court declare this an exceptional case and that LNL Building Products Inc. be granted its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;
6. That Universal Building Systems, Inc. be granted prejudgment and post judgment interest on the damages caused by reason of LNL Building Products Inc.'s acts of infringement; and
7. Such and further relief as the Court deems just and proper.

JURY DEMAND

Pursuant to the Federal Rules of Civil Procedure 38(b), Universal Building Systems, Inc. hereby demands a trial by jury.

Date: September 22, 2006

s/Peter G. Nikolai

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**ATTORNEYS FOR PLAINTIFF
UNIVERSAL BUILDING SYSTEMS, INC.**