

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

SIOUX CHIEF MFG. CO., INC.,)	
)	
Plaintiff,)	CIVIL ACTION
)	
vs.)	CASE NO. <u>05-CV-2095 KHV/JPO</u>
)	
IPS CORPORATION,)	
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Sioux Chief Mfg. Co., Inc., (“Sioux Chief”) complains of defendant IPS Corporation (“IPS”) as follows:

1. This is a claim for patent infringement and arises under the patent laws of the United States, 35 U.S.C. § 100 et seq., including but not limited to 35 U.S.C. §§ 271, 281.
2. This Court has original subject matter jurisdiction under 28 U.S.C. § 1338(a).
3. Plaintiff, Sioux Chief, is a Missouri corporation with a principal place of business at 24110 South Peculiar Drive, Peculiar, Missouri 64078.
4. Defendant IPS, on information and belief, is a California corporation, although its standing as a corporation in California may be suspended at the time of this filing.
5. IPS, on information and belief, has a principal place of business located at 202 Industrial Park Lane, Collierville, Tennessee 38027.
6. IPS has a registered agent for service of process, which is CT Corporation System, 818 West Seventh Street, Los Angeles, California 90017.

7. As IPS is alleged in this Complaint for Patent Infringement to have committed acts of infringement, including but not limited to an offer for sale of an infringing device, within the District of Kansas and elsewhere, venue is proper in this district under 28 U.S.C. §§ 1400(b), 1391(b) and 1391(c).

8. Sioux Chief and IPS each make and sell plumbing products.

9. Sioux Chief and IPS directly compete with one another in the manufacture and sale of certain plumbing products.

10. Sioux Chief owns United States Patent No. 5,377,361 (“the ’361 patent”) for a “TOILET FLANGE.” A copy of the ’361 patent is attached to this Complaint as Exhibit A.

11. The United States Patent and Trademark Office issued the ’361 patent to James Piskula on Jan. 3, 1995. Mr. Piskula thereafter assigned the ’361 patent to Sioux Chief. The assignment was recorded in the U.S. Patent and Trademark Office on February 24, 2005 at Reel 15698, Frame 269.

12. Sioux Chief has properly marked all patented toilet flanges that Sioux Chief has made and sold under 35 U.S.C. § 287(a).

13. Sioux Chief has paid all maintenance fees required to date to prevent premature expiration of the ’361 patent.

14. The ’361 patent is currently in force.

15. IPS has committed and is continuing to commit direct acts of infringement of the ’361 patent under 35 U.S.C. § 271(a) by making, using, selling, and offering to sell toilet flange devices that infringe the ’361 patent, without license or authority from Sioux Chief, including but

not limited to a device that IPS has made, used, sold, and offered to sell under the name of “TECHNO FLANGE.”

16. IPS has offered for sale within the District of Kansas, on information and belief, and elsewhere, toilet flange devices that infringe the '361 patent.

17. IPS has actively induced infringement of the '361 patent under 35 U.S.C. § 271(b) within the District of Kansas, on information and belief, and elsewhere.

18. IPS has contributed to the infringement of the '361 patent under 35 U.S.C. § 271(c) within the District of Kansas, on information and belief, and elsewhere.

19. Sioux Chief is entitled under 35 U.S.C. § 283 to an injunction prohibiting IPS and its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them from infringing and otherwise violating any right secured by the '361 patent.

20. Sioux Chief has been damaged as a direct result of the infringement of the '361 patent. Sioux Chief will continue to be damaged unless further infringement is enjoined.

21. Sioux Chief is entitled under 35 U.S.C. § 284 to an award of damages adequate to compensate Sioux Chief for IPS's infringement of the '361 patent. Sioux Chief is entitled to in no event less than a reasonable royalty for the infringement and use made of the invention of the '361 patent by IPS, all together with interest and costs.

22. IPS's infringement of the '361 patent is willful.

23. Due to IPS's willful infringement of the '361 patent, Sioux Chief is further entitled under 35 U.S.C. § 284 to have the damages awarded increased and assessed up to three times the amount found and assessed.

24. This is an exceptional case that entitles Sioux Chief under 35 U.S.C. § 285 to an award of reasonable attorney fees.

WHEREFORE, Sioux Chief demands that the following judgments and orders be entered in favor of Sioux Chief and against IPS:

A. A preliminary and permanent injunction under 35 U.S.C. § 283 prohibiting IPS and its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them from infringing and otherwise violating any right secured by the '361 patent;

B. An award of damages, in an amount proven at trial, that is adequate to compensate Sioux Chief for IPS's infringement of the '361 patent, and in no event less than a reasonable royalty;

C. A reasonable royalty for the infringement and use made of the invention of the '361 patent by IPS;

D. An award of increased damages so determined for willful infringement, up to three times the amount of damages found and assessed, pursuant to 35 U.S.C. § 284, together with prejudgment interest;

E. An award of prejudgment interest as allowed by law;

F. An award to Sioux Chief of its costs and of its reasonable attorney fees; and

G. Such other and further relief as the Court deems just and proper in this case.

Jury Demand

A trial by jury is hereby demanded on all issues triable to a jury in this case. Plaintiff hereby designates Kansas City, Kansas as the place of trial.

Respectfully submitted,

s/ Eric D. Barton

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