

RECEIPT # 63332  
AMOUNT \$ 250  
SUMMONS ISSUED X-1  
LOCAL RULE 4.1 \_\_\_\_\_  
WAIVER FORM \_\_\_\_\_  
MCF ISSUED \_\_\_\_\_  
BY DPTY. CLK. M  
DATE 4-7-05

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

FILED  
APR 7 2005  
DISTRICT COURT OF MASS

MUELLER CO. )  
500 West Eldorado Street )  
Decatur, Illinois 62522, )  
--and-- )  
MUELLER INTERNATIONAL, INC., )  
110 Corporate Drive, Suite 10 )  
Portsmouth, New Hampshire 03801, )

Plaintiff, )

v. )

UNITED STATES PIPE & FOUNDRY )  
CO. )  
3300 First Avenue North )  
Birmingham, Alabama 35222, )

Defendants )

CIVIL ACTION NO. \_\_\_\_\_

JUDGE: \_\_\_\_\_

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**05 - 10682 RCL**

**PARTIES AND JURISDICTION**

MAGISTRATE JUDGE Bowler

1. Mueller Co. is a corporation organized and existing under the laws of Illinois with its principal place of business in Decatur, Illinois.
2. Mueller International, Inc. ("MII," and, collectively with Mueller Co., "Mueller") is a corporation organized and existing under the laws of Delaware with its principal place of business in Portsmouth, New Hampshire.
3. Upon information and belief, United States Pipe & Foundry Co. ("U.S. Pipe") is a corporation with its principal place of business in Birmingham, Alabama.
4. This action for patent infringement is brought under the patent laws of the United States, including 35 U.S.C. §§271 et seq.

5. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§1331 and 1338(a).

6. Venue is proper in this Court pursuant to 28 U.S.C. §§1391(b) and (c) and 1400(b) as the product accused of infringing the patent in suit has been and is being sold in this district.

**CLAIM FOR PATENT INFRINGEMENT**  
**(Count I)**

7. Mueller realleges and incorporates by reference Paragraphs 1 through 6 of this Complaint as if separately restated herein.

8. MII is the owner of all right, title and interest in and to U.S. Patent No. 4,842,246 (the “‘246 Patent”) which duly issued on June 27, 1989, entitled “Valve Seat Configuration.” A copy of the ‘246 Patent is attached as Exhibit A. MII has issued an exclusive license to Mueller Co. to use the intellectual property identified by the ‘246 Patent.

9. U.S. Pipe manufactures, offers for sale and sells in the United States, including in this judicial district, the METROFLOW™/M-03 Hydrant (the “U.S. Pipe Infringing Device”).

10. The U.S. Pipe Infringing Device has infringed and continues to infringe the claims of the ‘246 Patent.

11. U.S. Pipe has infringed and continues to infringe the ‘246 Patent by manufacturing, offering for sale and selling the U.S. Pipe Infringing Device in this judicial district and elsewhere and will continue to do so unless enjoined by this Court.

12. U.S. Pipe's acts of infringement are willful as U.S. Pipe has actual knowledge of the '246 Patent.

13. U.S. Pipe's acts of infringement have caused and will continue to cause substantial and irreparable damage to Mueller.

14. Mueller has no adequate remedy at law.

WHEREFORE, Mueller requests the relief set forth below.

**PRAYERS FOR RELIEF**

1. That the Court enter judgment that defendant has infringed the '246 Patent;

2. That pursuant to Count I, the Court preliminarily and permanently enjoin defendant, its subsidiaries, affiliates, divisions, officers, agents, servants, employees, directors, partners, representatives and all parties in active concert and/or participation with them from directly or indirectly making, having made, selling, offering for sale, distributing and/or using products that infringe the '246 Patent including the U.S. Pipe Infringing Device;

3. That the Court enter judgment that defendant's acts of infringement were committed willfully;

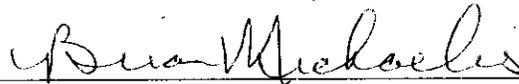
4. That the Court award Mueller damages adequate to compensate for U.S. Pipe's infringement, together with interest;

5. That the Court treble damages pursuant to 35 U.S.C. § 284;

6. That the Court find this to be an exceptional case under 35 U.S.C. § 285 and award Mueller its reasonable attorneys' fees and costs; and

7. Such other and further relief that this Court deems just and proper.

Respectfully submitted,  
MUELLER CO. and MUELLER  
INTERNATIONAL, INC.,  
By their attorneys,



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Dated: April 7, 2005

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