

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

BUTLER MANUFACTURING COMPANY,)	
A Delaware Corporation)	
1540 Genessee St.)	
Kansas City, Missouri 64141,)	
)	
Plaintiff,)	
)	Case No. 05-0875-CV-W-FJG
vs.)	
)	JURY TRIAL DEMANDED
ACSYS, INC.,)	
A Washington Corporation)	
1677 Miles Avenue, ste 101)	
Hayden Lake, Idaho 83835)	
)	
Serve: Eleven Fourteen, Inc.)	
422 W. Riverside Ave #1100)	
Spokane, Washington 99201-0302)	
)	
Defendant.)	

COMPLAINT

Plaintiff Butler Manufacturing Company ("Butler"), by and through its attorneys,
for its Complaint states:

1. Plaintiff Butler Manufacturing Company is a Delaware corporation,
having its principal place of business in Kansas City, Missouri.
2. On information and belief, Acsys, Inc. ("Acsys") is a Washington
corporation, having its principal place of business at 1677 Miles Avenue, Suite 101,
Hayden Lake, Idaho 83835. Its registered agent is Eleven Fourteen, Inc, 422 W.
Riverside Avenue #1100, Spokane, Washington 99201-0302.
3. On information and belief, Acsys has done business in and has substantial
contacts with this district in direct connection with this dispute, including sending

multiple management representatives to this district in connection with the business and contracts at issue in this suit, doing business with Butler in this district, and executing contracts with Butler in this district directly related to this dispute.

4. This is an action for a declaratory judgment: (1) that Acsys cannot demonstrate a right to enjoin Butler from exercising its rights under the parties' Technology and Technical Assistance Agreement ("Agreement") including without limitation its right to make, use, sell and offer to sell products and methods embodying the claims of U.S. Patent 6,385,942 (the '942 Patent) and (2) to enforce the Agreement's mandatory arbitration clause.

5. Subject matter jurisdiction is based herein upon 28 U.S.C. §§ 1331, 1332, 1338, 2201, and 2202.

6. Venue is proper in this district under 28 U.S.C. § 1391(a)-(c).

7. Acsys is the owner and assignee of record of the '942 Patent.

8. On January 9, 2004, Butler and Acsys entered into the Agreement, which sets forth the parties rights and obligations in developing a business to manufacture and sell products embodying the technology claimed in the '942 patent. Butler has invested millions of dollars in developing and running this ongoing business.

9. The Agreement contains a binding arbitration clause, but does permit either party to file for injunctive relief in a Court of competent jurisdiction without first proceeding to arbitration if there is a breach of the Agreement that will result in immediate and irreparable injury to the other party for which there is no adequate remedy at law.

10. By multiple oral and written communications over several weeks preceding this Complaint, Acsys has alleged that Butler has breached the Agreement and has threatened to terminate Butler's rights thereunder.

11. On September 23, 2005, Acsys's President, Werner Nennecker stated to a Butler representative in a telephone conversation that Acsys was giving notice that the Agreement was terminated, that Acsys intended to file suit seeking an injunction against Butler and that Butler should cease and desist from taking future orders for products. In a subsequent email, Mr. Nennecker repeated his allegations that Butler had breached the Agreement and that the breaches have caused Acsys substantial damage.

12. Accordingly, an actual case or controversy exists between Butler and Acsys regarding Butler's potential infringement of the '942 Patent, its right to continue licensing the '942 Patent and Butler's alleged breach of contract.

13. Butler legitimately believes its actions were proper under the Agreement, as none of the breaches alleged by Acsys are material and Acsys never alleged material breach until recently.

14. The threats from Acsys have created a reasonable apprehension on the part of Butler that Acsys intends to file suit against Butler for patent infringement and/or breach of contract seeking an injunction to curtail Butler's business operations.

15. There is a justiciable and actual controversy before the Court with regard to whether Butler's activities infringe and/or violate any rights of Acsys, and the relief to which Acsys would be entitled if it could succeed in establishing protectable rights and the infringement or violation thereof. Accordingly, specific relief may be granted pursuant to 28 U.S.C. § 2201 and 2202 for a declaration of rights that will resolve the controversy giving rise to this proceeding.

WHEREFORE, Plaintiffs pray that this Court enter its declaratory judgment respecting the rights, remedies, and legal obligations of the parties to this lawsuit and specifically declare:

- (a) That Acsys cannot demonstrate any breach of the Agreement that would entitle Acsys to injunctive relief.
- (b) That the Agreement's arbitration clause is enforceable and binding and that the parties must proceed to arbitration as their sole means of resolving any legal dispute under the Agreement.
- (c) That all expenses and costs incurred in this action, including attorneys' fees, be borne by Acsys, and for such other and further relief as this Court deems just and appropriate under the circumstances.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 28 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: September 23, 2005

Respectfully submitted,

s/ David R. Barnard

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