

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

**FILED**  
SEP - 2 2005  
U. S. DISTRICT COURT  
E. DIST. OF MO.  
ST. LOUIS

CARR LANE MFG. CO. )  
Plaintiff, )  
 )  
v. )  
 )  
DE-STA-CO INDUSTRIES, INC. and )  
DELAWARE CAPITAL FORMATION, )  
INC. )  
Defendants. )

Case Number:  
JURY TRIAL REQUESTED

**4 05CV01413 JCH**

COMPLAINT

Carr Lane Manufacturing Co. ("Carr Lane") files this complaint against De-Sta-Co Industries, Inc. ("De-Sta-Co") and Delaware Capital Formation, Inc. ("DCF") for a declaratory judgment that Carr Lane does not infringe De-Sta-Co's and DCF's patent rights in U.S. Patent No. 5,165,148 (the "148 Patent").

PARTIES

1. Carr Lane is a Missouri company with its principle place of business at 4200 Carr Lane Ct., P.O. Box 191970, St. Louis, Missouri, 63119-7970.

2. On information and belief, De-Sta-Co is a wholly owned subsidiary of Dover Resources, Inc., with a principal place of business at 31811 Sherman Ave., Madison Heights, Michigan 48071.

3. On information and belief, DCF is a wholly owned subsidiary of Dover Resources, Inc. with a principal place of business at Suite 780, 1100 North Market Street, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

4. This complaint is a claim for declaratory judgment of patent noninfringement and thus jurisdiction is proper under the Federal Declaratory Judgment Act, 28 U.S.C. §§2201

and 2202, and the Patent Laws of the United States, 35 U.S.C. §100, et seq., concerning actions related to patents, and 28 U.S.C. §1338.

5. Venue is proper in this Court under 28 U.S.C. §1391(b) and (c) as the activities alleged to infringe the '148 Patent have taken place substantially within this district.

### FACTS

6. On August 11, 2005, Carr Lane received a letter (the "Letter") from counsel purporting to represent De-Sta-Co through DCF. A copy of the cease and desist letter is attached hereto as Exhibit A.

7. The Letter stated that both De-Sta-Co and DCF, the assignee of the patent, "owned" the '148 Patent.

8. In the Letter, counsel for De-Sta-Co and DCF explicitly alleged that at least one of the products made, used, sold, or offered for sale by Carr Lane infringed at least one of the claims of the '148 Patent.

9. The Letter stated that De-Sta-Co, through DCF, intended to enforce its rights in the '148 Patent to the fullest extent of the law.

10. Carr Lane has made and continues to make toggle clamps, and has done so within the last six years and since issuance of the '148 Patent, that are alleged to infringe the '148 Patent.

### COUNT I

#### DECLARATORY JUDGMENT OF NONINFRINGEMENT

11. Carr Lane incorporates by reference the allegations of paragraphs 1-10.

12. Carr Lane's manufacture, use, sale, or offer for sale of its toggle clamps does not infringe the '148 Patent.

13. Based on De-Sta-Co's and DCF's specific allegations that one of Carr Lane's products infringes the '148 Patent, and De-Sta-Co's and DCF's express intent to enforce their

rights in the '148 Patent, an actual controversy has arisen and now exists between the parties as to whether or not Carr Lane has infringed the '148 Patent.

**PRAYER FOR RELIEF**

WHEREFORE, Carr Lane prays that this Court enter judgment in its favor and grant the following relief:

- A. A declaration that Carr Lane has not infringed any claim of the '148 Patent.
- B. An award to Carr Lane of its costs and disbursements in this action, including reasonable attorneys' fees pursuant to 35 U.S.C. §§ 284 and 285 and other applicable law; and
- C. An award to Carr Lane of such further relief as the Court may deem appropriate.

**JURY TRIAL DEMAND**

Carr Lane demands a trial by jury on all issues triable of right by jury.

Respectfully Submitted,

Thompson Coburn LLP

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