

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

FLEXHEAD INDUSTRIES, INC. and  
PNM, INC.

Plaintiffs,

v.

EASYFLEX, INC.; VICTAULIC COMPANY;  
AF USA, LLC; MIDLAND STEEL, INC.; and  
GREENSKET, INC.,

Defendants.

Civil Action No. 06-CA-11897-DPW

**JURY TRIAL DEMANDED**

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**FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

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Plaintiffs FlexHead Industries, Inc. and PNM, Inc., for their complaint, allege the following:

1. Plaintiff FlexHead Industries, Inc. (“FlexHead”) is a corporation organized and existing under the laws of the Commonwealth of Massachusetts and has its principal place of business at 56 Lowland Street, Holliston, Massachusetts, within this Judicial District.

2. Plaintiff PNM, Inc. (“PNM”) is a corporation organized and existing under the laws of the Commonwealth of Massachusetts and has its principal place of business at 56 Lowland Street, Holliston, Massachusetts, within this Judicial District.

3. Defendant Easyflex, Inc. (“Easyflex”) is a corporation organized and existing under the laws of the State of California, and has its principal place of business at 15011 Parkway Loop, Unit G, Tustin, California.

4. Defendant Greensket, Inc. (“Greensket”) is a corporation organized and existing under the laws of the State of Washington, and has its principal place of business at 15011 Parkway Loop, Unit G, Tustin, California.

5. Defendant Victaulic Company (“Victaulic”) is a corporation organized and existing under the laws of the State of Pennsylvania and has its principal place of business at 4901 Kesslersville Road, Easton, Pennsylvania.

6. Defendant AF USA, LLC (“AquaFlex”) is a corporation organized and existing under the laws of the State of Illinois, and has its principal place of business at 503 Industrial Drive, Bensenville, Illinois.

7. Defendant Midland Steel, Inc. (“Midland Steel”) is a corporation organized and existing under the laws of the State of Illinois and has its principal place of business at 925 Livingston Ct, Inverness, Illinois.

### **JURISDICTION**

8. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 (federal question), and 28 U.S.C. § 1338(a) (action arising under an Act of Congress relating to patents).

9. This Court has personal jurisdiction over Easyflex because Easyflex has substantial and continuous contacts with this Judicial District, and/or because Easyflex has committed acts of patent infringement within this Judicial District, by making, using, importing, selling, or offering for sale, *inter alia*, products that infringe the U.S. patents identified below, including by placing such products into the stream of commerce in circumstances under which Easyflex reasonably should have anticipated being subject to suit in this Judicial District.

10. This Court has personal jurisdiction over Greensket because Greensket has substantial and continuous contacts with this Judicial District, and/or because Greensket has committed acts of patent infringement within this Judicial District, by making, using, importing, selling, or offering for sale, *inter alia*, products that infringe the U.S. patents identified below, including by placing such products into the stream of commerce in

circumstances under which Greensket reasonably should have anticipated being subject to suit in this Judicial District.

11. This Court has personal jurisdiction over Victaulic because Victaulic has substantial and continuous contacts with this Judicial District, and/or because Victaulic has committed acts of patent infringement within this Judicial District, by making, using, importing, selling, or offering for sale, *inter alia*, products that infringe the U.S. patents identified below, including by placing such products into the stream of commerce in circumstances under which Victaulic reasonably should have anticipated being subject to suit in this Judicial District.

12. This Court has personal jurisdiction over AquaFlex because AquaFlex has substantial and continuous contacts with this Judicial District, and/or because AquaFlex has committed acts of patent infringement within this Judicial District, by making, using, importing, selling, or offering for sale, *inter alia*, products that infringe the U.S. patents identified below, including by placing such products into the stream of commerce in circumstances under which AquaFlex reasonably should have anticipated being subject to suit in this Judicial District.

13. This Court has personal jurisdiction over Midland Steel because Midland Steel has substantial and continuous contacts with this Judicial District, and/or because Midland Steel has committed acts of patent infringement within this Judicial District, by making, using, importing, selling, or offering for sale, *inter alia*, products that infringe the U.S. patents identified below, including by placing such products into the stream of commerce in circumstances under which Midland Steel reasonably should have anticipated being subject to suit in this Judicial District.

#### **VENUE**

14. Venue is proper in this Judicial District under 28 U.S.C. § 1391 (b) & (c) and 28 U.S.C. § 1400.

#### **GENERAL ALLEGATIONS**

15. PNM is the owner of United States Patent Nos. 6,119,784 (the “’784 Patent”), 6,752,218 (the “’218 patent”), 6,488,097 (the “’097 patent”), and 7,032,680 (the “’680 patent”), which are valid, legally issued patents. Copies of the ’784, ’218, ’097, and ’680 patents (collectively “the PNM patents”) are attached to this Complaint as Exhibits A, B, C, and D, respectively.

16. PNM has granted FlexHead an exclusive license to the PNM patents.

17. The notice requirement set forth in 35 U.S.C. § 287(a) has been satisfied.

**COUNT I: INFRINGEMENT OF THE ’784 PATENT**

18. Paragraphs 1-17 of this complaint are incorporated herein by reference.

19. Easyflex has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the ’784 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

20. Upon information and belief, Easyflex has had actual knowledge of the ’784 patent and its infringement has been and is now willful.

21. Easyflex will continue to infringe the ’784 patent unless permanently enjoined by this Court.

22. Easyflex’s past and continued acts of infringement of the ’784 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

23. Greensket has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the ’784 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

24. Upon information and belief, Greensket has had actual knowledge of the '784 patent and its infringement has been and is now willful.

25. Greensket will continue to infringe the '784 patent unless permanently enjoined by this Court.

26. Greensket's past and continued acts of infringement of the '784 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

27. Victaulic has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '784 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

28. Upon information and belief, Victaulic has had actual knowledge of the '784 patent and its infringement has been and is now willful.

29. Victaulic will continue to infringe the '784 patent unless permanently enjoined by this Court.

30. Victaulic's past and continued acts of infringement of the '784 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

31. AquaFlex has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '784 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

32. Upon information and belief, AquaFlex has had actual knowledge of the '784 patent and its infringement has been and is now willful.

33. AquaFlex will continue to infringe the '784 patent unless permanently enjoined by this Court.

34. AquaFlex's past and continued acts of infringement of the '784 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

35. Midland Steel has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '784 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

36. Upon information and belief, Midland Steel has had actual knowledge of the '784 patent and its infringement has been and is now willful.

37. Midland Steel will continue to infringe the '784 patent unless permanently enjoined by this Court.

38. Midland Steel's past and continued acts of infringement of the '784 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

## **COUNT II: INFRINGEMENT OF THE '218 PATENT**

39. Paragraphs 1-17 of this complaint are incorporated herein by reference.

40. Easyflex has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '218 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

41. Upon information and belief, Easyflex has had actual knowledge of the '218 patent and its infringement has been and is now willful.

42. Easyflex will continue to infringe the '218 patent unless permanently enjoined by this Court.

43. Easyflex's past and continued acts of infringement of the '218 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

44. Greensket has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '218 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

45. Upon information and belief, Greensket has had actual knowledge of the '218 patent and its infringement has been and is now willful.

46. Greensket will continue to infringe the '218 patent unless permanently enjoined by this Court.

47. Greensket's past and continued acts of infringement of the '218 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

48. Victaulic has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '218 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

49. Upon information and belief, Victaulic has had actual knowledge of the '218 patent and its infringement has been and is now willful.

50. Victaulic will continue to infringe the '218 patent unless permanently enjoined by this Court.

51. Victaulic's past and continued acts of infringement of the '218 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

52. AquaFlex has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '218 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

53. Upon information and belief, AquaFlex has had actual knowledge of the '218 patent and its infringement has been and is now willful.

54. AquaFlex will continue to infringe the '218 patent unless permanently enjoined by this Court.

55. AquaFlex's past and continued acts of infringement of the '218 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

56. Midland Steel has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '218 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

57. Upon information and belief, Midland Steel has had actual knowledge of the '218 patent and its infringement has been and is now willful.

58. Midland Steel will continue to infringe the '218 patent unless permanently enjoined by this Court.



59. Midland Steel's past and continued acts of infringement of the '218 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

**COUNT III: INFRINGEMENT OF THE '097 PATENT**

60. Paragraphs 1-17 of this complaint are incorporated herein by reference.

61. Easyflex has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '097 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

62. Upon information and belief, Easyflex has had actual knowledge of the '097 patent and its infringement has been and is now willful.

63. Easyflex will continue to infringe the '097 patent unless permanently enjoined by this Court.

64. Easyflex's past and continued acts of infringement of the '097 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

65. Greensket has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '097 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

66. Upon information and belief, Greensket has had actual knowledge of the '097 patent and its infringement has been and is now willful.

67. Greensket will continue to infringe the '097 patent unless permanently enjoined by this Court.

68. Greensket's past and continued acts of infringement of the '097 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

69. Victaulic has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '097 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

70. Upon information and belief, Victaulic has had actual knowledge of the '097 patent and its infringement has been and is now willful.

71. Victaulic will continue to infringe the '097 patent unless permanently enjoined by this Court.

72. Victaulic's past and continued acts of infringement of the '097 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

73. AquaFlex has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '097 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

74. Upon information and belief, AquaFlex has had actual knowledge of the '097 patent and its infringement has been and is now willful.

75. AquaFlex will continue to infringe the '097 patent unless permanently enjoined by this Court.

76. AquaFlex's past and continued acts of infringement of the '097 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

77. Midland Steel has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '097 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

78. Upon information and belief, Midland Steel has had actual knowledge of the '097 patent and its infringement has been and is now willful.

79. Midland Steel will continue to infringe the '097 patent unless permanently enjoined by this Court.

80. Midland Steel's past and continued acts of infringement of the '097 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

#### **COUNT IV: INFRINGEMENT OF THE '680 PATENT**

81. Paragraphs 1-17 of this complaint are incorporated herein by reference.

82. Easyflex has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '680 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

83. Upon information and belief, Easyflex has had actual knowledge of the '680 patent and its infringement has been and is now willful.

84. Easyflex will continue to infringe the '680 patent unless permanently enjoined by this Court.

85. Easyflex's past and continued acts of infringement of the '680 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

86. Greensket has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '680 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

87. Upon information and belief, Greensket has had actual knowledge of the '680 patent and its infringement has been and is now willful.

88. Greensket will continue to infringe the '680 patent unless permanently enjoined by this Court.

89. Greensket's past and continued acts of infringement of the '680 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

90. Victaulic has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '680 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

91. Upon information and belief, Victaulic has had actual knowledge of the '680 patent and its infringement has been and is now willful.

92. Victaulic will continue to infringe the '680 patent unless permanently enjoined by this Court.

93. Victaulic's past and continued acts of infringement of the '680 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

94. AquaFlex has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '680 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of

fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

95. Upon information and belief, AquaFlex has had actual knowledge of the '680 patent and its infringement has been and is now willful.

96. AquaFlex will continue to infringe the '680 patent unless permanently enjoined by this Court.

97. AquaFlex's past and continued acts of infringement of the '680 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

98. Midland Steel has been and is now infringing, actively inducing infringement of, and/or contributing to the infringement of the '680 patent. The infringing acts include, but are not limited to, the manufacture, use, sale, importation, or offer for sale of fire protection sprinkler support systems configured to be attached to a suspended ceiling grid or support structure, for use with a flexible sprinkler assemblage or conduit.

99. Upon information and belief, Midland Steel has had actual knowledge of the '680 patent and its infringement has been and is now willful.

100. Midland Steel will continue to infringe the '680 patent unless permanently enjoined by this Court.

101. Midland Steel's past and continued acts of infringement of the '680 patent have injured the plaintiffs and thus the plaintiffs are entitled to recover damages adequate to compensate for this infringement.

### **RELIEF REQUESTED**

WHEREFORE, the plaintiffs pray as follows:

1. That this Court find that the '784, '218, '097, and '680 patents are valid and infringed by Easyflex, Greensket, Victaulic, AquaFlex, and Midland Steel.

2. That this Court enjoin Easyflex, Greensket, Victaulic, AquaFlex, Midland Steel, their parents, subsidiaries, affiliates, officers, agents, servants, employees and attorneys, and all persons acting for, with, by through, or under any of them from infringing the '784, '218, '097, and '680 patents.

3. That this Court award the plaintiffs damages adequate to compensate the plaintiffs for its injuries resulting from the defendants' infringement, together with interest and costs, pursuant to 35 U.S.C. § 284.

4. That this court award the plaintiffs treble damages found or assessed, pursuant to 35 U.S.C. § 284.

5. That this Court declare this to be an exceptional case within the meaning of 35 U.S.C. § 285.

6. That this Court award the plaintiffs its costs in this action, together with reasonable attorney's fees and pre-judgment and post-judgment interest.

7. That this Court award the plaintiffs such other and further relief as this Court may deem just and proper.

#### **JURY TRIAL DEMAND**

The plaintiffs demand a trial by jury on all issues triable of right by a jury.

Dated: September 26, 2007

/s/ Thomas A. Brown

Alan D. Smith (BBO No. 629,034)

Thomas A. Brown (BBO No. 657,715)

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