

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

FILED  
CHARLOTTE, N.C.  
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U.S. DISTRICT COURT  
W. DIST. OF N.C.

\_\_\_\_\_  
L.B. PLASTICS, INC. )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 )  
 AMERIMAX HOME PRODUCTS, INC. DBA )  
 GUTTER WORLD )  
 )  
 ) Defendant. )  
\_\_\_\_\_

Case No. 5:04-cv-022

JURY TRIAL DEMANDED

**COMPLAINT**

COMES NOW the Plaintiff, L. B. Plastics, Inc. (hereinafter referred to as "L.B. Plastics") and for its Complaint against Defendant AMERIMAX HOME PRODUCTS, INC. dba GUTTER WORLD (hereinafter referred to as "Defendant"), alleges and says:

**A. JURISDICTION AND VENUE**

1. This civil action arises under the Patent Laws of the United States, United States Code, Title 35, Section 1 et seq., and in particular, 35 U.S.C. §§ 271.
2. Jurisdiction is proper in this Court under the provisions of 28 U.S.C. § 1338(a) in that the claims of the Complaint arise under the Patent Laws of the United States.
3. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1), (2) and (c), and 28 U.S.C. § 1400(b). Upon information and belief, the Defendant conducts business in this district by, inter

alia, the sale of products to Lowe's Company, dba Lowe's Home Improvement Warehouse in this district and division.

4. This Court has jurisdiction pursuant to 28 U.S.C. §1331.

## **B. PARTIES**

5. Plaintiff L.B. Plastics is a business corporation organized and existing under the laws of the State of North Carolina, with its principal place of business in Mooresville, N.C.

6. Upon information and belief, Defendant is a business corporation organized and existing under the laws of the state of Delaware, and has a principal place of business at 450 Richardson Drive, Lancaster, PA 17603, doing business under the name "Gutter World."

## **C. CLAIM FOR RELIEF AGAINST THE DEFENDANT**

### **Patent Infringement**

7. Plaintiff L.B. Plastics is the owner by assignment from L.B. Plastics, Ltd. of all right, title and interest in and to United States Patent No. 6,463,700, issued October 15, 2002, and entitled "Composite Gutter Guard", (hereinafter referred to as the "'700 Patent.").

8. Defendant has infringed and continues to infringe the '700 Patent by making, using, selling and offering for sale in this District and elsewhere, products that come within the scope of the '700 Patent in violation of the Patent Laws of the United States, including, inter alia, 35 U.S.C. § 271, or which contributorily infringe and induce infringement of the '700 Patent.

9. Defendant has direct knowledge of the '700 Patent and is nevertheless making, using, selling or offering for sale infringing products, and therefore is willfully infringing the '700 Patent.

10. These acts of infringement are irreparably harming and causing damage to Plaintiff L.B. Plastics and will continue to do so unless and until restrained by this Court.

WHEREFORE, Plaintiff prays:

A. That this Court preliminarily and permanently enjoin Defendant from infringing the '700 Patent, in accordance with 35 U.S.C. §283 and engaging in any advertising or sales of its infringing products;

B. That Plaintiff be awarded judgment against Defendant for damages resulting from their infringement of the '700 Patent, and that such damages be trebled in accordance with provisions of 35 U.S.C. §284, and for reasonable attorneys' fees in accordance with 35 U.S.C. §285;

C. That this Court award Plaintiff interest, cost and such further relief that this Court deems just and equitable;

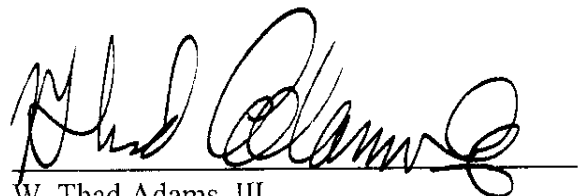
D. That this Court order Defendant to pay Plaintiff all its reasonable taxable costs and attorneys' fees in a sum and manner deemed appropriate by this Court based on the deliberate and willful infringement by Defendant as set forth in this Complaint; and

E. That all issues so triable be tried to a jury.

Respectfully submitted,

L.B. PLASTICS, INC.

By:



W. Thad Adams, III  
Attorney for the Plaintiff

Of Counsel:

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**VERIFICATION OF COMPLAINT**

Harry H. Davis, being first duly sworn, deposes and says that he is the President of Plaintiff L. B. Plastics, Inc., that he has read the attached Complaint, and that the statements made therein are true except as to those matters stated upon information and belief, and as to those matters, he believes them to be true.

This, the 20<sup>th</sup> day of Feb, 2004.

Harry H. Davis  
Harry H. Davis, President  
L. B. PLASTICS, INC.

STATE OF NORTH CAROLINA

COUNTY OF IREDELL

I, McAreen hereby certify and acknowledge that Harry H. Davis, President of L. B. Plastics, Inc., after being duly sworn, appeared before me this day and executed the foregoing Verification of Complaint.

This, the 20 day of Feb, 2004.

McAreen  
Notary Public

My Commission Expires: 7-27-2008

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