

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>JOHN EVANS' SONS, INC.,</b>	:	
	:	
<b>Plaintiff,</b>	:	<b>CIVIL ACTION NO. _____</b>
	:	
v.	:	
<b>CALDWELL MANUFACTURING COMPANY,</b>	:	
	:	
<b>Defendant.</b>	:	<b>COMPLAINT AND DEMAND FOR JURY TRIAL</b>

Plaintiff, John Evans' Sons, Inc. ("John Evans"), files this Complaint against Defendant, Caldwell Manufacturing Company ("Caldwell"), and in support thereof alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, which arises under the patent laws of the United States, 35 U.S.C. § 101 et seq.

**PARTIES**

2. Plaintiff John Evans is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business at 1 Spring Avenue, Lansdale, Pennsylvania 19446.

3. John Evans is a manufacturer of mechanical assemblies and springs, including curl springs, constant force springs, and coil balance springs.

4. Defendant Caldwell is a corporation conducting business in the Commonwealth of Pennsylvania with a principal place of business at 2605 Manitou Road, Rochester, NY 14692.

**JURISDICTION AND VENUE**

5. This court has jurisdiction of this matter pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, Title 35 U.S.C. § 101 *et seq.*

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b), because this is a civil action not founded solely on diversity of citizenship and the defendant resides, and is subject to personal jurisdiction, in this District.

**FACTS**

7. Caldwell sent a registered letter to John Evans dated April 12, 2004, stating that Caldwell is the owner of U.S. Patent Nos. 5,353,548 (the "'548 patent") and 5,463,793 (the "'793 patent"), entitled "Curl spring shoe-based window balancing system" and "Sash shoe system for a curl spring window balance," respectively. A true and accurate copy of the April 12, 2004 letter, with the enclosures referenced therein, is attached hereto as Exhibit "A."

8. In the April 12, 2004 letter, Caldwell stated that "a new constant force balance product named the 'Tilt Arm Balance System'" introduced by John Evans is infringing the '548 and '793 patents.

9. John Evans has not infringed any valid claim of the '548 and '793 patents, as properly construed.

10. By reason of the foregoing claim of infringement stated in the April 12, 2004 letter, John Evans has a reasonable apprehension of suit by Caldwell.

11. An actual and justiciable controversy exists between John Evans and Caldwell as to Caldwell's claim of the infringement of the '548 and '793 patents by products made, sold and offered for sale by John Evans. As a result, John Evans seeks a determination and declaration

that it has not infringed, has not contributorily infringed and has not induced others to infringe the '548 and '793 patents.

**COUNT I**  
**(Declaratory Judgment Regarding the '548 Patent)**

12. John Evans restates and incorporates by reference the allegations contained in Paragraphs 1 to 11 above as if fully stated herein at length.

13. The '548 patent is invalid for failure to meet one or more of the conditions and requirements for patentability specified in Title 35, United States Code, particularly §§ 102, 103 and 112.

14. John Evans is not and has not directly or indirectly infringed the '548 patent.

15. There is an actual and justiciable controversy between John Evans and Caldwell over the validity and infringement of the '548 patent.

**COUNT II**  
**(Declaratory Judgment Regarding the '793 Patent)**

16. John Evans restates and incorporates by reference the allegations contained in Paragraphs 1 to 15 above as if fully stated herein at length.

17. The '793 patent is invalid for failure to meet one or more of the conditions and requirements for patentability specified in Title 35, United States Code, particularly §§ 102, 103 and 112.

18. John Evans does not and has not directly or indirectly infringed the '793 patent.

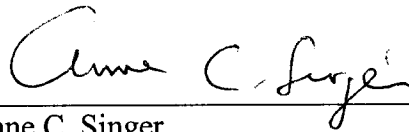
19. There is an actual and justiciable controversy between John Evans and Caldwell over the validity and infringement of the '793 patent.

**WHEREFORE**, Plaintiff, John Evans, Inc., respectfully requests that this Court enter judgment in its favor and against defendant, Caldwell Manufacturing Company, as follows:

- (a) determine and declare that John Evans has not infringed, has not contributorily infringed and has not induced others to infringe the '548 and '793 patents;
- (b) determine and declare that the '548 and '793 patents are invalid;
- (c) award John Evans attorneys' fees, costs and expense in this action; and
- (d) award John Evans such other relief the Court deems appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiff, John Evans, Inc., hereby demands a trial by jury in this case.



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Dated: April 19, 2004