

FILE ORIGINAL

*MS*

OCT 15 2003

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

*W. Paul*

GEORGIA-PACIFIC CORPORATION, )

Plaintiff, )

v. )

THE HOFFMAN GROUP LTD.; )  
HOFFMAN ENVIRONMENTAL )  
SYSTEMS, INC.; LATENTIER, LLC; )  
and ROGER PAUL HOFFMAN, )

Defendants. )

CIVIL ACTION

FILE NO.

1 03 CV 3142

CAP

**COMPLAINT FOR DECLARATORY JUDGMENT**

PLAINTIFF Georgia-Pacific Corporation ("Georgia-Pacific" or "Plaintiff") files this Complaint for Declaratory Judgment seeking a declaration that Georgia-Pacific does not infringe any valid claim of U.S. Patent No. 6,157,916, allegedly invented by Defendant Roger Paul Hoffman and owned by The Hoffman Group Ltd. ("The Hoffman Group") and/or Defendant Latentier, LLC, that the patent-in-suit and continuations thereof are invalid under the patent laws of the United States, that the patent-in-suit is unenforceable under the patent laws of the United States, and that Georgia-Pacific has not breached any confidentiality agreements or

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otherwise wrongfully used any confidential information owned by Defendants, and related relief.

**Jurisdiction And Venue**

1. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et. seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202.

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), 1367 and 2201(a).

3. Georgia-Pacific is a corporation incorporated under the laws of Georgia with its principal place of business located at 133 Peachtree Street, N.E., Atlanta, Georgia 30303.

4. Defendant The Hoffman Group is a corporation with a place of business at 1039 West Mason Street, Green Bay, Wisconsin 54303 and/or 3727 Candia Drive, Punta Gorda, Florida 33950. The Hoffman Group has conducted business in the State of Georgia and in this judicial district.

5. Defendant Hoffman Environmental Systems, Inc. is or was a corporation with a place of business at 125 Jefferson Street, Suite 201, Green Bay Wisconsin 54301. On information and belief, Hoffman Environmental Systems, Inc. may now be known as The Hoffman Group Ltd.

6. Defendant Latentier, LLC is a Delaware corporation with a place of business at 3727 Candia Drive, Punta Gorda, Florida 33950. Latentier, LLC has conducted business in the State of Georgia and in this judicial district.

7. Defendant Roger Paul Hoffman is an individual who resides at 2780 Queen Ann Court, Green Bay, Wisconsin 54304 and/or 3727 Candia Drive, Punta Gorda, Florida 33950. Mr. Hoffman is a consultant, the named inventor in the patent-in-suit, the President of the other Defendants, and has conducted business in the State of Georgia and this judicial district.

8. All Defendants are subject to personal jurisdiction in this Court.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

#### **Factual Background**

10. On December 5, 2000, the United States Patent & Trademark Office issued United States Patent No. 6,157,916 (“the ‘916 Patent”), entitled “Method and Apparatus to Control the Operating Speed of a Papermaking Facility.”

11. Defendant Roger Paul Hoffman is the named inventor of the ‘916 Patent.

12. Defendant The Hoffman Group is the named assignee of the ‘916 Patent.

13. It has been stated publicly that Defendant Latentier is the owner of the patent for a “Variable Operating Rate” Strategy utilizing a “Profit Optimization Process.”

14. Defendants have contacted Georgia-Pacific, through correspondence, telephone conferences and in-person meetings with Georgia-Pacific in Atlanta, Georgia, in an attempt to force Georgia-Pacific to settle claims relating to the ‘916 Patent and to purchase a license under the ‘916 Patent.

15. In connection with the ‘916 Patent and processes and equipment alleged to be in use at Georgia-Pacific, Defendants have stated to Georgia-Pacific: “The willful infringement of a patent allows for treble damages . . . .”

16. In connection with the ‘916 Patent and processes and equipment alleged to be in use at Georgia-Pacific, Defendants have stated to Georgia-Pacific that “. . . under the doctrine of unjust enrichment for using confidential information, we would be entitled to all of the benefit that the concept created.”

17. Georgia-Pacific does not infringe any valid claim of the ‘916 Patent.

18. The ‘916 Patent is invalid.

19. The ‘916 Patent is unenforceable.

20. Georgia-Pacific has not breached any confidentiality agreement or otherwise wrongfully used any confidential information owned by the Defendants.

21. An actual case and controversy exists between Georgia-Pacific and the Defendants as to whether Georgia-Pacific has infringed any valid claim of the '916 Patent, whether the claims of the '916 Patent and continuations thereof are valid, whether the claims of the '916 Patent are enforceable, and whether Georgia-Pacific has breached any confidentiality agreement or otherwise wrongfully used confidential information owned by Defendants.

22. Georgia-Pacific has invested substantial resources in its manufacturing processes, equipment and technologies. Any attempts by the Defendants to interrupt, prevent or limit Georgia-Pacific's use or further development of its processes, equipment and technologies will cause Georgia-Pacific substantial injury and harm.

**Count I - Declaration Of Non-Infringement of The '916 Patent**

23. Georgia-Pacific hereby incorporates by reference Paragraphs 1 through 22 as if fully set forth herein.

24. Georgia-Pacific has not infringed and does not infringe, directly or indirectly, any valid claim of the '916 Patent.

25. Georgia-Pacific will not in the future infringe, directly or indirectly, any valid claim of the '916 Patent by use of its processes, equipment and technologies.

26. Defendants have caused Georgia Pacific to have substantial uncertainty as to its rights regarding the '916 Patent.

27. Georgia-Pacific has a reasonable apprehension that it will soon be faced with a lawsuit by the Defendants for infringement of the '916 Patent.

28. Georgia-Pacific is entitled to a judicial determination of the controversy between Georgia-Pacific and Defendants and a declaration that:

(a) Georgia-Pacific has not infringed, directly or indirectly, the '916 Patent;

(b) Georgia-Pacific does not currently infringe, directly or indirectly, the '916 Patent; and

(c) Georgia-Pacific will not in the future infringe, directly or indirectly, the '916 Patent by Georgia-Pacific's use and development of its processes, equipment and technologies.

**Count II - Declaration Of Invalidity of '916 Patent and Continuations**

29. Georgia-Pacific hereby incorporates by reference Paragraphs 1 through 28 as if fully set forth herein.

30. Defendants have caused Georgia-Pacific to have substantial uncertainty as to its rights regarding the '916 Patent and continuations thereof.

31. Georgia-Pacific has a reasonable apprehension that it will soon be faced with a lawsuit by the Defendants for infringement of the '916 Patent and continuations thereof.

32. The alleged invention described in the '916 Patent and all claims set forth therein are invalid for failure to meet the requirements of patentability as defined in 35 U.S.C. §§ 102, 103 and/or 112.

33. Defendants have stated to Georgia-Pacific that at least one application is pending for continuation patent(s) of the '916 Patent, that the patent claims in such continuation patent application(s) are broader than the claims of the original '916 Patent, and that such broader continuation patent(s) will issue.

34. Any such continuation patent(s) likewise would be invalid for failure to meet the requirements of patentability as defined in 35 U.S.C. §§ 102, 103 and/or 112.

35. Georgia-Pacific is entitled to a judicial determination of the controversy between Georgia-Pacific and Defendants and a declaration that the '916 Patent, and any continuation patents issuing therefrom, and all claims set forth therein are invalid.

**Count III - Declaration Of Unenforceability of '916 Patent**

36. Georgia-Pacific hereby incorporates by reference Paragraphs 1 through 35 as if fully set forth herein.

37. Defendants have caused Georgia-Pacific to have substantial uncertainty as to its rights regarding the '916 Patent.

38. Georgia-Pacific has a reasonable apprehension that it will soon be faced with a lawsuit by the Defendants for infringement of the '916 Patent.

39. The '916 Patent is unenforceable because the Inventor wrongfully failed to disclose to the U.S. Patent & Trademark Office material prior art known to the Inventor, including without limitation articles authored by Defendant Hoffman, the named inventor, in 1980 ("Small tonnage increases examined by mill for cost-effectiveness," Pulp & Paper, September 1980) and in 1995 ("Containerboard Outlook: Building Stretch into the Industry," 1995 Paper/Forest Products Global Outlook Conference, November 6-7, 1995).

40. Georgia-Pacific is entitled to a judicial determination of the controversy between Georgia-Pacific and Defendants and a declaration that the '916 Patent and all claims set forth therein are unenforceable.



**Count IV - Declaration That Georgia-Pacific Has Not Breached  
Any Confidentiality Agreement or Wrongfully Used  
Confidential Information Owned By Defendants**

41. Georgia-Pacific hereby incorporates by reference Paragraphs 1 through 40 as if fully set forth herein.

42. Defendants have caused Georgia-Pacific to have substantial uncertainty as to its rights regarding the alleged confidentiality agreements and confidential information.

43. Georgia-Pacific has a reasonable apprehension that it will soon be faced with a lawsuit by the Defendants for alleged breach of the confidentiality agreements and allegedly wrongful use of supposedly confidential information owned by Defendants.

44. Georgia-Pacific has not breached and will not breach any confidentiality agreement between Georgia-Pacific and Defendants.

45. Georgia-Pacific has not wrongfully used, and will not in the future wrongfully use, any confidential information owned by Defendants.

46. Georgia-Pacific is entitled to a judicial determination of the controversy between Georgia-Pacific and Defendants and a declaration that:

(a) Georgia-Pacific has not breached any confidentiality agreement between Georgia-Pacific and Defendants, or wrongfully used any confidential information owned by Defendants; and

(b) Georgia-Pacific will not breach any confidentiality agreement, or wrongfully use confidential information owned by Defendants, by virtue of Georgia-Pacific's future use and development of its processes, equipment and technologies.

WHEREFORE Georgia-Pacific respectfully requests that this Court:

(a) Enter judgment and declarations in favor of Georgia-Pacific, and against the Defendants, on all counts of the Complaint for Declaratory Judgment as specifically requested above;

(b) In furtherance of the Court's declarations, enter a preliminary and permanent injunction enjoining Defendants, and their officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with them, from attempting or threatening to enforce against Georgia-Pacific, its direct or indirect subsidiaries, affiliates, customers or suppliers, the '916 Patent or continuation patents thereof, from alleging infringement thereof by any of same; and from alleging that Georgia-Pacific or any of its direct or indirect subsidiaries

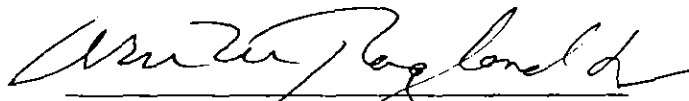
or affiliates has breached a confidentiality agreement with Defendants or otherwise wrongfully used confidential information owned by Defendants.

(c) Award Georgia-Pacific its attorneys fees, expenses of litigation and costs incurred in bringing this action; and

(d) Award Georgia-Pacific such other and further relief as the Court deems just and proper.

**Jury Trial Demand**

Plaintiff hereby demands a trial by jury on all issues so triable.



William M. Ragland, Jr.  
Georgia Bar No. 591888  
Jerry B. Blackstock  
Georgia Bar No. 061000  
Leslie B. Zacks  
Georgia Bar No. 784110  
Bradley W. Grout  
Georgia Bar No. 313950

HUNTON & WILLIAMS LLP  
600 Peachtree Street, N.E., Suite 4100  
Atlanta, Georgia 30308-2216  
TEL: (404) 888-4000  
FAX: (404) 888-4190

Attorneys for Plaintiff  
Georgia-Pacific Corporation

ORIGINAL

# United States District Court

NORTHERN

GEORGIA

DISTRICT OF

**GEORGIA-PACIFIC CORPORATION**

**SUMMONS IN A CIVIL CASE**

**V.**

CASE NUMBER:

**THE HOFFMAN GROUP LTD.;  
HOFFMAN ENVIRONMENTAL  
SYSTEMS, INC.; LATENTIER, LLC;  
and ROGER PAUL HOFFMAN**

**1 03 CV 3142**

**TO:** (Name and address of defendant)

Roger Paul Hoffman  
3727 Candia Drive  
Punta Gorda, Florida 33950

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Jerry B. Blackstock  
William M. Ragland, Jr.  
Bradley W. Grout  
Hunton & Williams, LLP  
600 Peachtree Street, N.E., Suite 4100  
Atlanta, Georgia 30308  
(404) 888-4000

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

*Louise E. Thomas*

CLERK

DATE

*[Signature]*

(BY) DEPUTY CLERK

**RETURN OF SERVICE**

Service of the Summons and Complaint was made by me <sup>1</sup>	DATE
NAME OF SERVER (PRINT)	TITLE

*Check one box below to indicate appropriate method of service*

- Served personally upon the defendant. Place where served: \_\_\_\_\_
- Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.  
Name of person with whom the summons and complaint were left: \_\_\_\_\_
- Returned unexecuted: \_\_\_\_\_
- Other (*specify*): \_\_\_\_\_

**STATEMENT OF SERVICE FEES**

TRAVEL	SERVICE	TOTAL

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on \_\_\_\_\_  
*Date*
\_\_\_\_\_  
*Signature of Server*

\_\_\_\_\_

*Address of Service*

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

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**1 03 CV 3142**

**TO:** (Name and address of defendant)

Hoffman Environmental Systems, Inc.,  
n/k/a The Hoffman Group Ltd.  
1039 West Mason Street  
Green Bay, Wisconsin 54303

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Jerry B. Blackstock  
William M. Ragland, Jr.  
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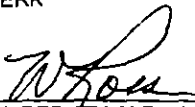
an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

**LOUISE D. THOMAS**

CLERK

**10/15/03**

DATE



(BY) DEPUTY CLERK

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The Hoffman Group Ltd.  
3727 Candia Drive  
Punta Gorda, Florida 33950

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**LUTHER D. THOMAS**

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OCT 15 2003

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**TO:** (Name and address of defendant)

Latentier, LLC  
3727 Candia Drive  
Punta Gorda, Florida 33950

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

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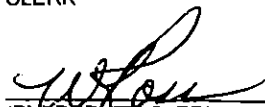
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**LUTHER D. THOMAS**

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