

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

SPECIALTY MANUFACTURING  
COMPANY, INC.

Plaintiff,

v.

TRANSPEC, INC.

Defendant.

02-72003

Case No.

DENISE PAGE HOOD

MAGISTRATE JUDGE CARLSON

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, complaining of Defendant, alleges and says:

PARTIES

1. Plaintiff Specialty Manufacturing Company, Inc. ("Plaintiff" or "Specialty") is a North Carolina corporation with its principal place of business located at 10200 Pineville Road, Pineville, North Carolina 28134.

2. Defendant Transpec, Inc. ("Defendant" or "Transpec") is, upon information and belief, a Michigan corporation with its principal place of business located at 7205 Sterling Ponds Ct., Sterling Heights, Michigan 48312.

JURISDICTION AND VENUE

3. This is a declaratory judgment action for a declaration of Specialty's patent rights in accordance with the Patent Act, 35 U.S.C. § 1, et seq. This Court has jurisdiction of this patent declaratory judgment action pursuant to 28 U.S.C. §§ 1338, 2201 and 2202.

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4. This Court has jurisdiction over Defendant in that Defendant has its principal place of business in this State and resides in this district.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and § 1400.

**STATEMENT OF FACTS**

6. Defendant claims to own U.S. Patent Nos. 4,495,731 (the “’731 patent”) and 4,964,673 (the “’673 patent”). The ‘731 and ‘673 patents are entitled “Vehicle Hatch Mounting Assembly.”

7. The ‘731 patent expired on January 29, 2002.

8. Specialty manufactures and sells a combined vent and escape hatch for vehicles, including school buses.

9. By letter dated December 5, 2001, Defendant’s counsel notified Specialty that Defendant considered Specialty’s manufacture, use, offer for sale or sale of its combined vent and escape hatch to be an infringement of the ‘731 and ‘673 patents and demanded assurances that Specialty cease any such manufacture, use, offer for sale or sale. A copy of this letter of December 5, 2001, is attached hereto as Exhibit A.

10. By letter dated December 14, 2001, Specialty’s counsel responded to Transpec’s counsel’s December 5, 2001 letter, requesting that Transpec identify which claims of the ‘731 and ‘673 patents Specialty allegedly infringed. Transpec’s counsel responded by letter dated April 12, 2002, which again asserted that Specialty was infringing the ‘731 and ‘673 patents. Copies of both Specialty’s counsel’s December 14, 2001 letter and Defendant’s counsel’s April 12, 2002 letter are attached hereto as Exhibits B and C, respectively.

**FIRST CAUSE OF ACTION**  
**DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF PATENT**

11. Paragraphs 1 through 10 are incorporated herein by reference.

12. This is a claim for a declaratory judgment that Specialty does not infringe either the '731 patent or the '673 patent.

13. The December 5, 2001 and April 12, 2002 letters from Defendant's counsel to Specialty and Specialty's counsel, indicate the existence of an actual controversy on the issue of whether Specialty is infringing or has infringed the '731 or '673 patents.

14. Specialty has not infringed and does not infringe any valid patent owned by Defendant, including specifically the '731 or the '673 patents.

15. Specialty is entitled to a declaratory judgment from this Court that Specialty does not infringe and has not infringed either the '731 or the '673 patent.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays this Court for the following relief:

A. That this Court declare that Plaintiff's vent and escape hatch does not infringe any of Defendant's alleged rights in either the '731 patent or the '673 patent.

B. That Defendant and its agents be enjoined, pending trial, from instituting, prosecuting or threatening any action against Plaintiff, its principals or its customers under the '731 or '673 patents;

C. That Defendant and its agents be enjoined from alleging infringement by Plaintiff of either the '731 patent or the '673 patent;

D. That Plaintiff be awarded the costs and attorneys' fees it incurs in this action;

E. That Plaintiff be awarded any other relief this Court deems just and proper; and

F. That all triable issues be tried by jury.

DATE: May 17, 2002.

Respectfully submitted,



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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

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