

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Vinylex Corporation (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Dallas (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS Shindaiwa, Inc. COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED
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(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Steven E. Ross, Gardere Wynne Sewell LLP, 1601 Elm Street, Suite 3000, Dallas, Texas 75201 (214) 999-3000	ATTORNEYS (IF KNOWN) <div style="font-size: 2em; font-weight: bold; text-align: center;">3-02CV2052-M</div>
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II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only) (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <table style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify) _____
 6 Multidistrict Litigation
 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Law <input type="checkbox"/> 640 R R & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ref Inc Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patents <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lund (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U S Plaintiff or Defendant) <input type="checkbox"/> 871 RS - Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environment Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

VI. CAUSE OF ACTION (CITE THE U.S. STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Complaint for Patent Infringement, Title 35 of the United States Code; Subject matter jurisdiction pursuant to 28 U.S.C. Sections 1331 and 1338(a); Venue is proper in this district pursuant to 28 U.S.C. Sections 1391(c) and 1400(b)

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F R C P 23

DEMAND \$ _____ **JURY DEMAND:** X YES NO

VIII. RELATED CASE(S) IF ANY: (See instructions): _____ **JUDGE** _____ **DOCKET NUMBER** _____

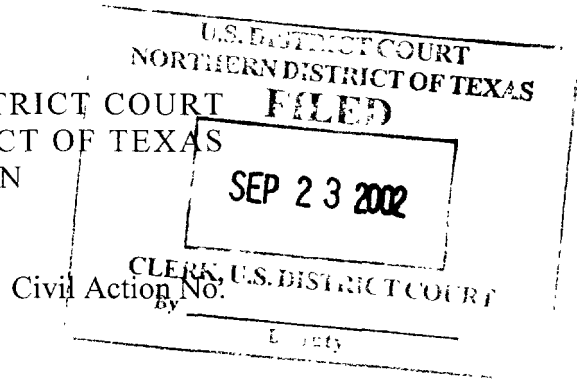
DATE September 23, 2002 **SIGNATURE OF ATTORNEY OF RECORD**

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG JUDGE _____

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



VINYLEX CORPORATION,

Plaintiff,

v.

SHINDAIWA, INC.,

Defendant.

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3-02CV2052-M

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Vinylex Corporation ("Vinylex") files this Complaint for Patent Infringement against Defendant Shindaiwa, Inc. ("Shindaiwa") and alleges as follows:

PARTIES

1. Plaintiff Vinylex is a corporation organized and existing under the laws of the State of Tennessee and has a principal place of business located at 1420 Vinylex Drive, Carrollton, Texas 75006.

2. Defendant Shindaiwa is corporation organized and existing under the laws of the State of Oregon and has a principal place of business located at 11975 SW Herman Road, Tualatin, Oregon 97062. Defendant Shindaiwa may be served with process by and through its president, Thomas L. Bunch, or any other officer or managing agent, at the referenced address.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant Shindaiwa because Defendant Shindaiwa regularly conducts business, and has committed the acts of infringement complained of herein, within the State of Texas and within this judicial district and division.

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b).

FACTUAL BACKGROUND

6. On November 15, 1994, U.S. Patent No. 5,364,307 (“the ‘307 Patent”), entitled “Coaxial Drive Cable Centering Apparatus,” was duly and legally issued to Plaintiff Vinylex. Plaintiff Vinylex is, and at all relevant times has been, the owner of the entire right, title and interest in and to the ‘307 Patent. The ‘307 Patent, a copy of which is attached as Exhibit A hereto, is valid, subsisting and in full force and effect.

7. On February 4, 1997, U.S. Patent No. 5,599,233 (“the ‘233 Patent”), entitled “Coaxial Drive Cable Centering Apparatus,” was duly and legally issued to Plaintiff Vinylex. Plaintiff Vinylex is, and at all relevant times has been, the owner of the entire right, title and interest in and to the ‘233 Patent. The ‘233 Patent, a copy of which is attached as Exhibit B hereto, is valid, subsisting and in full force and effect.

8. On December 9, 1997, U.S. Patent No. 5,695,404 (“the ‘404 Patent”), entitled “Coaxial Drive Cable Centering Apparatus,” was duly and legally issued to Plaintiff Vinylex. Plaintiff Vinylex is, and at all relevant times has been, the owner of the entire right, title and interest in and to the ‘404 Patent. The ‘404 Patent, a copy of which is attached as Exhibit C hereto, is valid, subsisting and in full force and effect.

COUNT I
Infringement of the '307 Patent

9. Plaintiff Vinylex realleges and incorporates by reference the allegations of paragraphs 1-8 above.

10. Defendant Shindaiwa has been and is willfully infringing the '307 Patent in violation of 35 U.S.C. § 271 by, without authority, making, using, offering to sell, selling and/or importing products embodying the patented inventions of the '307 Patent within the United States; actively inducing others to infringe the '307 Patent; and contributing to the infringement by others of the '307 Patent.

11. Defendant Shindaiwa has had actual notice of its infringement of the '307 Patent since at least as early as July 1, 2002, but Defendant Shindaiwa continues to willfully infringe the '307 Patent in conscious disregard of Plaintiff Vinylex's rights.

12. Plaintiff Vinylex has been damaged by Defendant Shindaiwa's infringement of the '307 Patent in an amount to be determined at trial. Moreover, Plaintiff Vinylex has been irreparably harmed by Defendant Shindaiwa's infringement and will continue to suffer irreparable harm unless Defendant Shindaiwa is enjoined from infringing the '307 Patent.

COUNT II
Infringement of the '233 Patent

13. Plaintiff Vinylex realleges and incorporates by reference the allegations of paragraphs 1-8 above.

14. Defendant Shindaiwa has been and is willfully infringing the '233 Patent in violation of 35 U.S.C. § 271 by, without authority, making, using, offering to sell, selling and/or importing products embodying the patented inventions of the '233 Patent within the United

States; actively inducing others to infringe the '233 Patent; and contributing to the infringement by others of the '233 Patent.

15. Defendant Shindaiwa has had actual notice of its infringement of the '233 Patent since at least as early as July 1, 2002, but Defendant Shindaiwa continues to willfully infringe the '233 Patent in conscious disregard of Plaintiff Vinylex's rights.

16. Plaintiff Vinylex has been damaged by Defendant Shindaiwa's infringement of the '233 Patent in an amount to be determined at trial. Moreover, Plaintiff Vinylex has been irreparably harmed by Defendant Shindaiwa's infringement and will continue to suffer irreparable harm unless Defendant Shindaiwa is enjoined from infringing the '233 Patent.

COUNT III
Infringement of the '404 Patent

17. Plaintiff Vinylex realleges and incorporates by reference the allegations of paragraphs 1-8 above.

18. Defendant Shindaiwa has been and is willfully infringing the '404 Patent in violation of 35 U.S.C. § 271 by, without authority, making, using, offering to sell, selling and/or importing products embodying the patented inventions of the '404 Patent within the United States; actively inducing others to infringe the '404 Patent; and contributing to the infringement by others of the '404 Patent.

19. Defendant Shindaiwa has had actual notice of its infringement of the '404 Patent since at least as early as July 1, 2002, but Defendant Shindaiwa continues to willfully infringe the '404 Patent in conscious disregard of Plaintiff Vinylex's rights.

20. Plaintiff Vinylex has been damaged by Defendant Shindaiwa's infringement of the '404 Patent in an amount to be determined at trial. Moreover, Plaintiff Vinylex has been

irreparably harmed by Defendant Shindaiwa's infringement and will continue to suffer irreparable harm unless Defendant Shindaiwa is enjoined from infringing the '404 Patent.

PRAYER

WHEREFORE, Plaintiff Vinylex prays for the following:

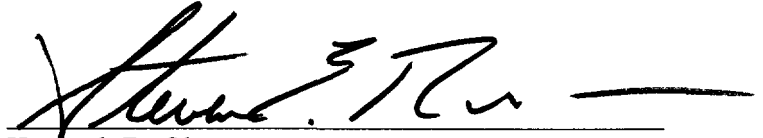
- A. Judgment that Defendant Shindaiwa has infringed the '307 Patent, the '233 Patent, and the '404 Patent (collectively the "Vinylex Patents");
- B. Preliminary and permanent injunctive relief pursuant to 35 U.S.C. § 283 prohibiting Defendant Shindaiwa, its officers, agents, servants, and employees, and all persons in active concert or participation with them, from infringing, inducing the infringement of, and contributorily infringing, the Vinylex Patents;
- C. That Defendant Shindaiwa be ordered to submit to the Court a sworn, written report detailing the manner of its compliance with the requested injunctive relief;
- D. An award of damages pursuant to 35 U.S.C. § 284 to compensate Plaintiff Vinylex for Defendant Shindaiwa's infringement, inducement of infringement of, and contributory infringement of the Vinylex Patents, together with pre-judgment and post-judgment interest;
- E. Judgment that the damages so adjudged be trebled due to Defendant Shindaiwa's willful infringement;
- F. Judgment that this is an exceptional case and that Plaintiff Vinylex be awarded its attorney's fees, costs and expenses incurred in this action; and
- G. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Vinylex hereby demands a trial by jury of all issues so triable in this action.

Dated: September 23, 2002.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven E. Ross", is written over a horizontal line.

Kenneth R. Glaser
Texas Bar No. 07999000
Steven E. Ross
Texas Bar No. 17305500
Kenneth T. Emanuelson
Texas Bar No. 24012591

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Facsimile: (214) 999-3430

**ATTORNEYS FOR PLAINTIFF
VINYLEX CORPORATION**