

ORIGINAL

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.	)
	)
POLY VINYL CO., INC.	)
	)
Defendant	)
_____	)

Case No. 5:01CV175-MK

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 Poly Vinyl Co., Inc. (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 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 Wisconsin and has its principal place of business at 320 Range Line Road, Sheboygan Falls, WI.

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

Patent Infringement

7. Plaintiff L.B. Plastics is the owner of all right, title and interest in and to United States Patent No. 5,956,920, issued September 28, 1999 and entitled "Modular Post Cladding Element, Post Cladding Assembly, and Method of Cladding a Post", (hereinafter referred to as the '920 Patent.")

8. Defendant has infringed and continues to infringe the '920 Patent by making, using, selling and offering for sale in this District and elsewhere, products that come within the scope of the '920 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 '920 Patent.

9. Defendant has knowledge of the '920 Patent and is making, using, selling or offering for sale infringing products with knowledge of said '920 Patent, and therefore is willfully infringing the '920 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 '920 Patent, in accordance with 35 U.S.C. §283 and engaging in any advertising or sales of its infringing products;

B. That L. B. Plastics be awarded judgment against Defendant for damages resulting from its infringement of the '920 Patent, that such damages be trebled in accordance with provisions of 35 U.S.C. §284, and that reasonable attorneys' fees be awarded in accordance with 35 U.S.C. §285;

C. That this Court order the impounding and destruction of all Defendant's products that infringe the '920 Patent; and

D. That this Court award L. B. Plastics interest, costs and such further relief that this Court deems just and equitable.

ADAMS, SCHWARTZ & EVANS, P.A.

By: 

W. Thad Adams, III  
Attorney for Plaintiff

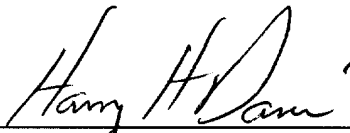
Of Counsel:

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2180 Two First Union Center  
301 S. Tryon Street  
Charlotte, North Carolina 28282  
(704) 375-9249

**VERIFICATION OF COMPLAINT**

Harry B. 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.

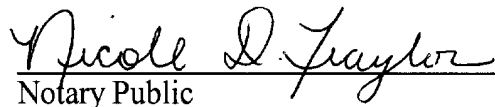
This, the 28<sup>th</sup> day of Sept, 2001.

  
\_\_\_\_\_  
Harry B. Davis  
President, L. B. Plastics, Inc.

STATE OF NORTH CAROLINA  
IREDELL  
COUNTY OF MECKLENBURG

I, Nicole D. Traylor, hereby certify and acknowledge that Harry B. 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 28<sup>th</sup> day of September, 2001.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: **My Commission Expires April 5, 2006**

SEAL