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14 Attorneys for Plaintiff JENS ERIK SORENSEN,
15 as Trustee of SORENSEN RESEARCH AND
16 DEVELOPMENT TRUST

17 UNITED STATES DISTRICT COURT
18 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

19 JENS ERIK SORENSEN, as Trustee of) Case No. 09cv0059 BTM (CAB)
20 SORENSEN RESEARCH AND)
21 DEVELOPMENT TRUST,) **AMENDED¹ COMPLAINT FOR**
22) **PATENT INFRINGEMENT**
23)
24) Plaintiff)
25) v.)
26) REQUEST FOR JURY TRIAL
27)
28) LOWE'S COMPANIES, INC., L G)
SOURCING, INC., LOWE'S HIW, INC.,)
and DOES 1 - 100,)
Defendants.)
_____)
_____)

¹ The amendment is restricted to identifying a new defendant – Lowe's HIW, Inc.

1 Plaintiff JENS E. SORENSEN, as TRUSTEE OF THE SORENSEN
2 RESEARCH AND DEVELOPMENT TRUST (“SRDT”), for its Amended
3 Complaint for Patent Infringement against Defendants alleges as follows:
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5 **THE PARTIES**

6 1. SRDT is a California resident, and the trustee of a trust organized
7 according to California law, and owner of all rights to United States Patent No.
8 4,935,184 (hereinafter “’184 patent”). A true and correct copy of the ‘184 patent is
9 attached hereto as Exhibit A.

10 2. Defendant Lowe's Companies, Inc. (“Lowe's”) is a corporation
11 organized under the laws of North Carolina, having a principal office located at 1000
12 Lowe's Blvd., Mooresville, NC 28117.

13 3. Defendant L G Sourcing, Inc. (“L G Sourcing”) is a wholly owned
14 subsidiary of Lowe’s Companies, Inc. and is a corporation organized under the laws
15 of North Carolina, having a principal office located at 1000 Lowe's Blvd.,
16 Mooresville, NC 28117.

17 3a. Defendant Lowe’s HIW, Inc. is a corporation organized under the laws
18 of Washington, which upon information and belief, operates Lowe’s stores in
19 California, including in this District.

20 4. Defendants DOES 1 – 100 are other persons or entities, presently
21 unidentified, that have also been engaged, directly or indirectly, in the manufacture,
22 import, sale, and/or offer for sale in the United States of the products accused of
23 infringement herein.

24 5. On information and belief, Defendants have acted as agents of one or
25 more of each other during some or all of the times relative to the subject matter of
26 this Complaint.
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1 **JURISDICTION and VENUE**

2 6. This action arises under the Patent Laws of the United States of
3 America, Title 35, United States Code. Jurisdiction is founded on Title 28, United
4 States Code §§ 1331, 1332(a), and 1338(a).

5 7. On information and belief, venue in this district is proper under 28
6 U.S.C. §§ 1391 and 1400(b) because Defendants have committed acts of
7 infringement in this District.

8 8. This Court has personal jurisdiction over Defendants because they have
9 manufactured within, imported into, offered for sale, and/or sold infringing products
10 in this District.

11 **CLAIM FOR RELIEF**

12 **(Patent Infringement)**

13 9. SRDT realleges and incorporates herein by reference paragraphs 1
14 through 8, inclusive, as though fully set forth herein.

15 10. The '184 patent entitled "Stabilized Injection Molding When Using a
16 Common Mold Part With Separate Complimentary Mold Parts," was issued on June
17 19, 1990.

18 11. On information and belief, Defendants have, within the past six years
19 and prior to February 5, 2008, made, imported into, sold or offered for sale within
20 the United States and this District, products for which the two plastic component
21 external plastic shells are manufactured through processes which are substantially
22 likely to incorporate all elements of the '184 patented process (hereinafter "Accused
23 Products").

24 12. Accused Products include the product(s) specifically identified below,
25 and any other of Defendants' products sold under any name which were
26 manufactured utilizing similar processes, including but not limited to, any other
27 product manufactured using the same injection mold as any of the products identified
28

1 in the following table:
2

Product Name	Model. No.
Kobalt Tools 120V 8.5A ½" Impact Wrench Model P1BZO 1-1/16"	3012
Kobalt Tools Inspection Mirror & magnetic Pick-up	270881
Kobalt Tools Magnetic Pick-up with LED	270879
Kobalt Tools 10 piece Plier & Wrench Set	278610
Kobalt Tools 28oz Steel Rip Hammer	169549
Kobalt Tools 22oz Steel Rip Hammer	169582
Kobalt Tools 20oz Steel Rip Hammer	177164
Kobalt Tools 16oz Steel Rip Hammer	19499
Kobalt Tools 16oz Fiberglass Curve Claw Hammer	26974
Kobalt Tools 20oz Brick Hammer	260356
Kobalt Tools 25' Tape Measure	239138
Kobalt Tools 25' Tape Measure	44128
Kobalt Tools 30' Tape Measure	52475
Kobalt Tools 25' Tape Measure	55508
Kobalt Tools 100' Tape Measure	60492
Kobalt Tools 28 piece Metric Ratchet Drive Set	266784
Kobalt Tools Pocket Size Drywall Rasp	245664
Kobalt Tools 3-in-1 Multi-Saw	247218
Kobalt Tools Wide Blade Scraper	239127
Kobalt Tools 6-in-1 Screwdriver	166591
Kobalt Tools 25 Piece Telescoping Screwdriver Ratchet Set	239446
Kobalt Tools 25 Piece Flex Screwdriver Ratchet Set	239450

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Kobalt Tools 4 Piece Locking Pliers Set	191099
Kobalt Tools 11" x 4.5" Drywall Trowel	245919
Kobalt Tools 6" Drywall Joint Trowel	246010
Kobalt Tools 5" x 2.5" Pointing Trowel	259948
Kobalt Tools Outside Corner Trowel	244120
Kobalt Tools Large Inside Corner Trowel	254662
Kobalt Tools 8" Linoleum Knife	10915
Kobalt Tools 9-1/2" Scissor	90507
Kobalt Tools 10" Curved Jaw Locking Plier	7914
Kobalt Tools 6-1/2" Long Nose Locking Plier	5675
Kobalt Tools 11" locking Clamp with Swivel Pads	284328
Kobalt Tools 6" locking Clamp with Swivel Pads	284330
Kobalt Tools 10" Quick Adjusting Wrench	270875
Kobalt Tools 8" Quick Adjusting Wrench	270876
Kobalt Tools 5" Needle Nose Pliers	15256
Kobalt Tools 6" Long Nose Pliers	253679
Kobalt Tools 7" Extra Leverage Long Nose Pliers	253671
Kobalt Tools 8" Long Nose Pliers	161416
Kobalt Tools 8" Groove Joint Pliers	16193
Kobalt Tools 10" Groove Joint Pliers	253680
Kobalt Tools 12" Groove Joint Pliers	253673
Kobalt Tools 16" Groove Joint Pliers	284323
Kobalt Tools 9" Linesman Pliers	253685
Kobalt Tools 8" Linesman Pliers	253682
Kobalt Tools 8" Extra Leverage Linesman Pliers	253672
Kobalt Tools 7" Linesman Pliers	253683
Kobalt Tools 8" Hog Nose Pliers	284322

Kobalt Tools 6" Slip Joint Pliers	253681
Kobalt Tools 8" Slip Joint Pliers	16250
Kobalt Tools 8-1/4" Wiring Tool	284156
Kobalt Tools 7" Diagonal Pliers	253669
Kobalt Tools 6" Diagonal Pliers	10674
Kobalt Tools 10" Fencing Pliers	253684
Kobalt Tools 9-1/2" Cable Cutting Pliers	107385
Kobalt Tools 10" Concreters Nipper	284107
Kobalt Tools 7-1/2" Extra Leverage Diagonal Pliers	253670
Kobalt Tools 4-1/2" Diagonal Pliers	10674
Kobalt Tools Heavy Duty Oil & Gas Filter Wrench	270878
Finish Factor 18 MM Snap Off Knife by L.G. Sourcing	91688

13. Defendants have not obtained a license or any other valid authorization for import, sale, or offer for sale in the United States of products manufactured through use of the '184 patented process.

14. Defendants have been on constructive notice of the '184 patent since its issuance on June 19, 1990.

15. Defendants have been on actual express notice of the '184 patented process since April 16, 2005.

16. Upon information and belief, the Defendants have engaged in design, manufacture, import, sell, and/or offer for sale within the United States, including this District, products that have dual-layer external plastic housings.

17. On information and belief, the Accused products identified herein and as-yet-unidentified products manufactured through the same or substantially similar process have been manufactured through processes which incorporate all elements of the '184 patented process.

1 18. None of the Defendants have obtained a license or any other
2 authorization from the Plaintiff for manufacture, import, sale, and/or offer for sale in
3 the United States of products manufactured through use of the '184 patented process.

4 19. On information and belief, Defendants made, used, imported, sold
5 and/or offered for sale within the United States and this District, during the past six
6 years and before February 5, 2008, the Accused Products using the '184 patent
7 process, without authority to do so, in violation of 35 U.S.C. § 271.

8 20. On information and belief, Defendants contributed to infringement of
9 the '184 patent and actively induced others to infringe the '184 patent by virtue of
10 making, importing, selling, using and/or offering for sale within the United States
11 and this District, in violation of 35 U.S.C. § 271.

12 21. On information and belief, Plaintiff has suffered damages by reason of
13 Defendants' infringing conduct alleged hereinabove. The damages for Defendants'
14 conduct are in an amount that constitutes at least a reasonable royalty for all of
15 Defendants' sales of the Accused Products from six years prior to filing of this
16 Complaint and continuing until February 5, 2008.

17 22. On information and belief, the reasonable royalty owed to Plaintiff from
18 Defendants is at least eight percent (8%) of gross revenues from sales of the Accused
19 Products from six years prior to filing of this Complaint and continuing until
20 February 5, 2008, and according to proof at trial.

21
22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, SRDT prays that judgment be entered as follows:

24 a. For a determination that the Accused Processes are presumed to infringe
25 the '184 patent pursuant to 35 U.S.C. § 295;

26 b. Defendants are adjudicated and decreed to have infringed the '184
27 patent;

28 c. Defendants are adjudicated and decreed to have contributed to the

1 infringement of the '184 patent and to have induced others to infringe the '184
2 patent;

3 d. Defendants are ordered to account for damages adequate to compensate
4 Plaintiff for the infringement of '184 patent, their contributory infringement of the
5 '184 patent, and their inducement of infringement of the '184 patent, in the amount
6 of at least eight percent (8%) of gross sales during the infringing time period as a
7 reasonable royalty for all relevant sales of Accused Products and according to proof
8 at trial, and such damages are awarded to Plaintiff;

9 e. That this case is decreed an "exceptional case" and Plaintiff is awarded
10 reasonable attorneys' fees by the Court pursuant to 35 U.S.C. § 285;

11 f. For interest thereon at the legal rate;

12 g. For costs of suit herein incurred;

13 h. For such other and further relief as the Court may deem just and proper.
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15 **DEMAND FOR JURY TRIAL**

16 SRDT respectfully requests that its claims be tried to a jury.

17 DATED this Wednesday, February 18, 2009.
18

19 JENS ERIK SORENSEN, as Trustee of
20 SORENSEN RESEARCH AND DEVELOPMENT
21 TRUST, Plaintiff

22 /s/ Melody A. Kramer

23

Melody A. Kramer, Esq.

24 J. Michael Kaler, Esq.

25 Attorney for Plaintiff
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1 PROOF OF SERVICE

2 I, Melody A. Kramer, declare: I am and was at the time of this service working within in
3 the County of San Diego, California. I am over the age of 18 year and not a party to the within
4 action. My business address is the Kramer Law Office, Inc., 9930 Mesa Rim Road, Suite 1600,
5 San Diego, California, 92121.

6 On Wednesday, February 18, 2009, I served the following documents:

7 **AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

PERSON(S) SERVED	PARTY(IES) SERVED	METHOD OF SERVICE
Gail J. Standish gstandish@winston.com WINSTON & STRAWN LLP 333 S. Grand Avenue Los Angeles, CA 90071-1543	Attorneys for Defendants LOWE’S COMPANIES, INC., LG SOURCING, INC., LOWE’S HIW, INC.	ECF - Email--Pleadings Filed with the Court

- 14
- 15
- 16 (Personal Service) I caused to be personally served in a sealed envelope hand-delivered
17 to the office of counsel during regular business hours.
- 18 (Federal Express) I deposited or caused to be deposited today with Federal Express in a
19 sealed envelope containing a true copy of the foregoing documents with fees fully
prepaid addressed to the above noted addressee for overnight delivery.
- 20 (Facsimile) I caused a true copy of the foregoing documents to be transmitted by
21 facsimile machine to the above noted addressees. The facsimile transmissions were
reported as complete and without error.
- 22 (Email) I emailed a true copy of the foregoing documents to an email address
23 represented to be the correct email address for the above noted addressee.
- 24 (Email--Pleadings Filed with the Court) Pursuant to Local Rules, I electronically filed
25 this document via the CM/ECF system for the United States District Court for the
26 Southern District of California.
- 27 (U.S. Mail) I mailed a true copy of the foregoing documents to a mail address
28 represented to be the correct mail address for the above noted addressee.

1 I declare that the foregoing is true and correct, and that this declaration was executed on
2 Wednesday, February 18, 2009, in San Diego, California.

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4 /s/ Melody A. Kramer

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Melody A. Kramer

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