

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN**

|                         |   |                            |
|-------------------------|---|----------------------------|
| BISSELL HOMECARE, INC., | ) |                            |
|                         | ) |                            |
| Plaintiff,              | ) | Case No. 1:08-cv-724       |
|                         | ) | Honorable Robert J. Jonker |
| v.                      | ) |                            |
|                         | ) | Dyson Unit                 |
| DYSON INC.              | ) |                            |
|                         | ) | <b>JURY TRIAL DEMANDED</b> |
| Defendant.              | ) |                            |

**SECOND AMENDED (DYSON) COMPLAINT**

Plaintiff, Bissell Homecare, Inc. (“BISSELL”), for its Complaint against Defendant, Dyson, Inc. (“DYSON”), alleges and states as follows:

**PARTIES AND JURISDICTION**

1. BISSELL is a corporation organized under the laws of Michigan with its principal place of business in Grand Rapids, Michigan.
2. Upon information and belief, DYSON is an Illinois corporation with offices in Chicago, Illinois.
3. This action arises under the patent laws of the United States. This action is brought pursuant to 35 U.S.C. § 271, *et seq.*
4. This Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331 and 1338.
5. This Court has personal jurisdiction over DYSON because, among other things, DYSON has caused injury in Michigan by its offers to sell and actual sales of infringing products in Michigan.
6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(c) and 1400 because, *inter alia*, personal jurisdiction over Dyson is proper in this District.

**BISSELL’S BUSINESS AND INTELLECTUAL PROPERTY**

7. BISSELL manufactures and sells, *inter alia*, vacuum cleaners for home use under BISSELL trademarks.

8. BISSELL is the owner of U.S. Patent No. 6,344,064 (the ‘064 patent”), which is directed to a method and apparatus of particle transfer in multi-stage particle separators.

9. BISSELL is the owner of U.S. Patent No. 6,582,489 (the “‘489 patent”), which is also directed to a method and apparatus of particle transfer in multi-stage particle separators.

10. BISSELL is the owner of U.S. Patent No. 7,247,181 (the “‘181 patent”), which is directed to a cyclonic dirt separation module.

11. BISSELL has sold in the past, and continues to sell, products covered by the ‘064 patent, the ‘489 patent, and the ‘181 patent.

12. BISSELL has marked its products with the ‘064 patent, the ‘489 patent, and the ‘181 patent before at least some of the acts of infringement by DYSON identified in this Complaint.

13. By the acts described below, DYSON has infringed BISSELL’s ‘064 patent, ‘489 patent, and ‘181 patent to BISSELL’s irreparable injury.

**COUNT I:**  
**Patent Infringement**

14. BISSELL incorporates the allegations set forth in Paragraphs 1 through 14 above as though fully set forth herein.

15. DYSON represents that it is in the business of making and/or selling vacuum cleaners for home use.

16. Upon information and belief, DYSON makes, manufactures, sells, or offers to sell, its products at national retail stores in Michigan and elsewhere in the United States.

17. DYSON infringes at least one claim of the '064 patent, and/or DYSON induces or contributes to infringement(s) of at least one claim of the '064 patent by one or more others, by the manufacture, use, import, offer for sale, and/or sale of one or more cyclonic vacuum cleaners associated with DYSON.

18. DYSON infringes at least one claim of the '489 patent, and/or DYSON induces or contributes to infringement(s) of at least one claim of the '489 patent by one or more others, by the manufacture, use, import, offer for sale, and/or sale of one or more cyclonic vacuum cleaners associated with DYSON.

19. DYSON infringes at least one claim of the '181 patent, and/or DYSON induces or contributes to infringement(s) of at least one claim of the '181 patent by one or more others, by the manufacture, use, import, offer for sale, and/or sale of one or more cyclonic vacuum cleaners associated with DYSON.

20. DYSON will continue to infringe the '064 patent, the '489 patent, and the '181 patent unless enjoined by this Court.

21. BISSELL has suffered and will continue to suffer monetary damages as a result of DYSON's infringing activities.

22. BISSELL has suffered and will continue to suffer irreparable harm as a result of DYSON's infringing activities.

23. Upon information and belief, DYSON's infringements of the '064 patent, the '489 patent, and the '181 patent have been with at least constructive knowledge of the patents.

24. Based upon this information and belief, DYSON's infringements of the '064 patent, the '489 patent, and the '181 patent have been willful.

25. BISSELL is entitled to damages for DYSON's direct and/or indirect infringements, including, but not limited to, all damages available at law and equity, including damages pursuant to 35 U.S.C. §§ 284 and 285.

26. BISSELL is entitled to all remedies at law and equity, including, but not limited to, an injunction pursuant to 35 U.S.C. § 283.

### **JURY DEMAND**

27. BISSELL requests a trial by jury on all issues so triable.

**WHEREFORE**, BISSELL prays that this Court grant the following relief:

A. Enter judgment in favor of BISSELL and against DYSON on all claims, counterclaims, and defenses at issue in this dispute, and hold that DYSON has directly and/or indirectly infringed the '064, '489, and '181 patents.

B. Preliminarily and permanently enjoin DYSON and its officers, agents, servants, employees, and attorneys, and those in active concert or participation with them who receive actual notice of the Order ("DYSON's Affiliates") from importing, manufacturing, using, selling and/or offering for sale devices which infringe the '064 patent and from contributing to or inducing infringement of the patent.

C. Preliminarily and permanently enjoin DYSON and DYSON's Affiliates from importing, manufacturing, using, selling and/or offering for sale devices which infringe the '489 patent and from contributing to or inducing infringement of the patent.

D. Preliminarily and permanently enjoin DYSON and DYSON's Affiliates from importing, manufacturing, using, selling and/or offering for sale devices which infringe the '181 patent and from contributing to or inducing infringement of the patent.

E. Award BISSELL monetary damages adequate to compensate it for DYSON's infringements of the '064 patent, the '489 patent, and the '181 patent, direct or indirect, consistent with 35 U.S.C. § 284 and to the fullest extent allowed by law;

F. Declare this case exceptional, and award up to and including treble the amount of damages, together with fees, costs and prejudgment interest.

G. Award BISSELL's costs and expenses of this suit, including reasonable attorneys' and expert fees, pursuant to 35 U.S.C. § 285.

H. Award BISSELL all other just and proper relief.

Dated: June 12, 2009

Respectfully submitted,

s/ Daniel R. Gravelyn

Daniel R. Gravelyn (P40306)  
BARNES & THORNBURG LLP  
171 Monroe Ave., NW Suite 1000  
Grand Rapids, MI 49503  
Telephone: 616-742-3930  
[dgravelyn@btlaw.com](mailto:dgravelyn@btlaw.com)

Paul B. Hunt  
Jeff M. Barron  
Michael R. Brunelle  
BARNES & THORNBURG LLP  
11 South Meridian Street  
Indianapolis, IN 46204  
Telephone: 317-231-7751  
[phunt@btlaw.com](mailto:phunt@btlaw.com)  
[jbarron@btlaw.com](mailto:jbarron@btlaw.com)  
[mbrunelle@btlaw.com](mailto:mbrunelle@btlaw.com)

Attorneys for BISSELL Homecare, Inc.