

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT  
DISTRICT OF MASS.

ZIPWALL, LLC,

Plaintiff

v.

FASTCAP, LLC.,

Defendant.

Civil Action No.: 05-cv-11852-REK

**AMENDED COMPLAINT AND JURY DEMAND**

Plaintiff ZipWall, LLC ("ZipWall"), by its counsel and for its complaint against FastCap, LLC, states the following:

**Nature of this Action**

1. This is an action for infringement of U.S. Patent No. 6,942,004 (the "'004 patent"), issued on September 13, 2005 and assigned to ZipWall, for infringement of U.S. Patent No. 6,209,615 (the "'615 patent"), issued April 3, 2001, assigned to Zipwall, and for infringement of U.S. Patent No. 6,953,076 (the "'076 patent"), issued October 11, 2005 and assigned to ZipWall. A copy of the '004 patent is attached as Exhibit A, a copy of the '615 patent is attached as Exhibit B, and a copy of the '076 patent is attached as Exhibit C.

**Parties**

2. Plaintiff, ZipWall, is a Connecticut Limited Liability Company, having a principal place of business at 37 Broadway Street, Suite 2, Arlington, Massachusetts.

3. On information and belief, Defendant FastCap, LLC (“FastCap”), is a Washington Limited Liability Company having a principal place of business at 3725 Irongate Rd. Suite 105, Bellingham, WA.

4. This action arises under the patent laws of the United States, Title 35 of the United States Code.

**Count I (Patent Infringement)**

5. ZipWall repeats and realleges paragraphs 1-4 above.

6. ZipWall is the owner of United States Patent No. 6,942,004 (the “’004 patent”) issued on September 13, 2005, and has the right to sue on the ’004 patent.

7. Defendant FastCap is marketing and selling goods nationally which are covered by one or more claims of the ’004 patent.

8. Defendant FastCap is infringing the ’004 patent by making, selling, offering to sell, and/or using within the United States goods covered, literally or by equivalents, by one or more of the claims of the ’004 patent.

9. Defendant FastCap is inducing and contributing to infringement by others of the ’004 patent, by causing others to make, use, sell, or offer to sell goods covered, literally or by equivalents, by the ’004 patent within the United States.

**Count II (Patent Infringement)**

10. ZipWall repeats and realleges paragraphs 1-9 above.

11. ZipWall is the owner of United States Patent No. 6,209,615 (the “’615 patent”) issued on April 3, 2001, and has the right to sue on the ’615 patent.

12. Defendant FastCap is marketing and selling goods nationally which are covered by one or more claims of the ’615 patent.

13. Defendant FastCap is infringing the '615 patent by making, selling, offering to sell, and/or using within the United States goods covered, literally or by equivalents, by one or more of the claims of the '615 patent.

14. Defendant FastCap is inducing and contributing to infringement by others of the '615 patent, by causing others to make, use, sell, or offer to sell goods covered, literally or by equivalents, by the '615 patent within the United States.

15. Defendant FastCap's infringement of the '615 patent is and has been willful, has caused and will continue to cause ZipWall to suffer substantial damages, and has caused and will continue to cause ZipWall to suffer irreparable harm for which there is no adequate remedy at law.

**Count III (Patent Infringement)**

16. ZipWall repeats and realleges paragraphs 1-15 above.

17. ZipWall is the owner of United States Patent No. 6,953,076 (the "'076 patent") issued on October 11, 2005, and has the right to sue on the '076 patent.

18. Defendant FastCap is marketing and selling goods nationally which are covered by one or more claims of the '076 patent.

19. Defendant FastCap is infringing the '076 patent by making, selling, offering to sell, and/or using within the United States goods covered, literally or by equivalents, by one or more of the claims of the '076 patent.

20. Defendant FastCap is inducing and contributing to infringement by others of the '076 patent, by causing others to make, use, sell, or offer to sell goods covered, literally or by equivalents, by the '076 patent within the United States.

WHEREFORE, ZipWall requests that this Court:

- A. Enter a preliminary and permanent injunction enjoining FastCap and its affiliates, subsidiaries, officers, directors, employees, agents, representatives, licensees, successors, assigns, and all those acting for either of them or on their behalf, or acting in concert with them, from further infringement of the '004, '615, and '076 patents;
- B. Award ZipWall compensatory damages and its costs and interest;
- C. Award ZipWall treble damages for FastCap's willful infringement;
- D. Award ZipWall its reasonable attorneys' fees under 35 U.S.C. § 285; and
- F. Award ZipWall such other relief as the Court deems just and proper.

ZIPWALL DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Respectfully submitted,

ZIPWALL, LLC

October 11, 2005

by:

  
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