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DEC 15 2006  
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MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

THE CHAMBERLAIN GROUP, INC.,  
a Connecticut corporation,

Plaintiff,

v.

MCKEON ROLLING STEEL DOOR CO.,  
INC., a New York corporation,

Defendant.

) **06CV6941**  
) **JUDGE DER YEGHIAYAN**  
) **MAG. JUDGE DENLOW**

) **JURY TRIAL DEMANDED**  
)  
)  
)

**COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiff, The Chamberlain Group, Inc. ("Chamberlain"), complains against Defendant, McKeon Rolling Steel Door Co., Inc. ("McKeon"), as follows:

1. Chamberlain is a corporation incorporated under the laws of the State of Connecticut, with its principal place of business in Elmhurst, Illinois.

2. McKeon is a corporation incorporated under the laws of the State of New York, with its place of business in Brooklyn, New York.

3. This is an action for declaratory judgment brought pursuant to 28 U.S.C. § 2201 *et seq.*, and Rule 57, Fed.R.Civ.P., for the purpose of determining the parties' rights in an actual, justiciable controversy, as more fully set forth below.

4. This Court has jurisdiction because this is an action brought under the declaratory judgment authority of 28 U.S.C. §§ 2201-2202, and is based upon the Patent Laws of the United States, 35 U.S.C. §§ 271 *et seq.*, jurisdiction being conferred pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a).

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

6. Chamberlain is a manufacturer and seller of a variety of operators for fire doors, including its Model FDCL.

7. On April 13, 1999, United States Patent No. 5,893,234 (the "'234 patent") entitled *Time Delay Release Mechanism For a Fire Barrier* issued to McKeon, an assignee of James M. McKeon.

8. In a telephone conversation in early December, 2006 with Chamberlain's counsel, McKeon's counsel accused Chamberlain's Model FDCL with infringement of the '234 patent.

9. In March, 2006, McKeon sued Chamberlain for infringement of patent no. 5,245,879 regarding fire door operators in the United States District Court for the Eastern District of New York. In a December 6, 2006 letter to Chamberlain's counsel, McKeon charged Chamberlain with infringement of the '234 patent and attached a draft amended complaint in the New York action seeking recovery against Chamberlain for infringement of the '234 patent. In letters addressed to the United States Magistrate Judge in that Court, dated December 7 and 13, 2006, McKeon's counsel stated that it intends to seek to amend the complaint to allege infringement of the '234 patent, or alternatively file a separate lawsuit. However, the court-ordered deadline for amending pleadings in that action has already passed. To date, McKeon has not moved to amend the complaint in the New York action and has not filed a separate action to claim for infringement of the '234 patent.

10. By reason of the foregoing, McKeon has engaged in a course of conduct that has created in Chamberlain a reasonable apprehension that Chamberlain will be sued by McKeon for infringement of the '234 patent as a consequence of Chamberlain's manufacturing and sale of the Model FDCL fire door operator.

**COUNT I**  
**DECLARATORY JUDGMENT OF PATENT NON-INFRINGEMENT**

11. Chamberlain incorporates by reference herein paragraphs 1-10.
12. Chamberlain is not infringing, and has not infringed, any of the claims of the '234 patent with respect to Model FDCL fire door operator or otherwise.

**COUNT II**  
**DECLARATORY JUDGMENT OF PATENT INVALIDITY**

13. Chamberlain realleges paragraphs 1-10 above.
14. The '234 patent is invalid under the provisions of Title 35 of the United States Code, including, but not limited to, §§ 102, 103, and 112 thereof.

**PRAYER FOR RELIEF**

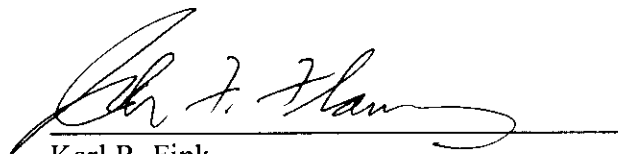
WHEREFORE, Chamberlain prays for a judgment in its favor for the following relief:

- A. A declaration that Chamberlain has not infringed and does not infringe any claim of the '234 patent;
- B. A declaration that the '234 patent is invalid or at least in part;
- C. A preliminary and permanent injunction restraining and enjoining McKeon, its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from claiming or asserting any charge of infringement of the '234 patent against Chamberlain, its agents, employees, successors, assigns, and customers;
- D. A determination pursuant to 35 U.S.C. § 285, that this is an exceptional case and an award to Chamberlain all Chamberlain's litigation expenses, including reasonable attorneys' fees, costs, and interest thereon; and
- E. Such other and further relief as the Court may deem just and equitable.

**JURY DEMAND**

Chamberlain demands trial by jury of all issues triable of right by a jury.

Dated: December 15, 2006

A handwritten signature in black ink, appearing to read 'Karl R. Fink', is written over a horizontal line.

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