

3. Defendant Consolidated Edison Company of New York (“Con Ed”) is a New York corporation having a principal place of business at 4 Irving Place, New York, NY 10003. Con Ed is in the business of providing gas and electric services and operates and services gas and other underground lines via trenchless or no-dig technologies. Con Ed purports to be the assignee and owner of the Con Ed Patents and claims to hold the right to assert all causes of action arising there under and the right to any remedy for any alleged infringement thereof.

JURISDICTION AND VENUE

4. Because this action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and the Patent Laws of the United States, 35 U.S.C. § 1 et seq., this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338.

5. This Court has personal jurisdiction over Defendant Con Ed because Con Ed has accused TT Technologies of patent infringement in this District and has actively participated in a leading trade research, development, and training organization serving the natural gas industry located in this district. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b).

BACKGROUND

6. The ‘271 Patent, entitled “Pipe Bursting and Replacement Apparatus,” reissued on June 11, 1996. The ‘542 Patent, entitled “Pipe Bursting and Replacement Method,” reissued June 24, 1997. On or about September 30, 2008, Con Ed accused TT Technologies of infringing both the ‘271 Patent and the ‘542 Patent through sales and use of TT Technologies’ GRUNDOBURST® pipe-bursting system, among other tools and methods.

7. Neither TT Technologies' GRUNDOBURST® pipe-bursting system, nor any other systems, products or methods designed, manufactured, sold, offered for sale, or used by TT Technologies, has infringed, does infringe, or would infringe literally or under the doctrine of equivalents any valid or enforceable claim of the Con Ed Patents.

8. TT Technologies has a nationwide network of regional customer service offices and distribution locations and provides comprehensive hands-on training seminars at its corporate offices as well as through regional shows, seminars, and demonstrations throughout North America each year. TT Technologies has disclosed, demonstrated, and used its pipe-bursting technologies for more than six (6) years. Accordingly, upon information and belief, Con Ed has had knowledge or should have known of TT Technologies' activities in this area for at least all of this time.

CLAIM I
**Declaration of Noninfringement,
Invalidity and Unenforceability of the '542 Patent**

9. TT Technologies adopts by reference paragraphs 1 through 8.

10. This claim seeks a declaration that the '542 Patent is not infringed and that it is invalid and unenforceable as against TT Technologies.

11. Con Ed maintains, and TT Technologies denies, that TT Technologies infringes literally or under the doctrine of equivalents one or more valid and enforceable claims of the '542 Patent.

12. A valid and justiciable controversy has arisen and exists between TT Technologies and Con Ed regarding the alleged infringement, validity and enforceability of the '542 Patent.

13. TT Technologies is entitled to a judicial determination and declaration of the parties' respective rights and duties concerning the '542 Patent as asserted against TT Technologies. Such a determination is necessary and appropriate at this time so the respective rights and duties of the parties regarding the validity, enforceability, and alleged infringement of the '542 Patent may be determined. Specifically, TT Technologies is entitled to a declaration that the systems, products and methods it manufactures, sells, offers for sale, and uses do not directly or indirectly, literally or under the doctrine of equivalents, by inducement or contributorily, infringe the '542 patent, and that the '542 Patent is invalid and/or unenforceable as against TT Technologies and thus Con Ed is estopped from asserting it.

CLAIM II
**Declaration of Noninfringement,
Invalidity and Unenforceability of the '271 Patent**

14. TT Technologies adopts by reference paragraphs 1 through 13.

15. This claim seeks a declaration that the '271 Patent is not infringed and that it is invalid and unenforceable as against TT Technologies.

16. Con Ed maintains, and TT Technologies denies, that TT Technologies infringes one or more valid and enforceable claims of the '271 Patent.

17. A valid and justiciable controversy has arisen and exists between TT Technologies and Con Ed regarding the alleged infringement, validity and enforceability of the '271 Patent.

18. TT Technologies is entitled to a judicial determination and declaration of the parties' respective rights and duties concerning the '271 Patent as asserted against TT Technologies. Such a determination is necessary and appropriate at this time so the respective

rights and duties of the parties regarding the validity, enforceability, and alleged infringement of the '271 Patent may be determined. Specifically, TT Technologies is entitled to a declaration that the systems, products and methods it manufactures, sells, offers for sale, and uses do not directly or indirectly, literally or under the doctrine of equivalents, by inducement or contributorily, infringe the '271 patent, and that the '271 Patent is invalid and/or unenforceable as against TT Technologies and thus Con Ed is estopped from asserting it.

CLAIM III
Declaration of *Laches* Bar to Recovery

19. TT Technologies adopts by reference paragraphs 1 through 18.

20. This claim seeks a declaration that any claim for damages by Con Ed against TT Technologies is barred by the doctrine of *laches*.

21. Upon information and belief, Con Ed has known or should have known of TT Technologies' activities for more than six (6) years but unjustifiably delayed in asserting claims of infringement.

22. Con Ed's delay in asserting claims of infringement was unreasonable and inexcusable.

23. TT Technologies has suffered material prejudice of both the economic and evidentiary kind attributable to Con Ed's delay.

24. There is an actual, substantial, and continuing justiciable controversy between TT Technologies and Con Ed regarding the alleged damages Con Ed has claimed that are associated with the purported infringement of the Con Ed Patents and Con Ed's other related intellectual property.

25. TT Technologies is entitled to a declaration that any pre-filing damages alleged by Con Ed are barred by the doctrine of *laches*.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff TT Technologies prays for the following relief:

A. That this Court adjudge and decree that TT Technologies has not infringed and will not infringe the claims of the '542 Patent, either directly or indirectly, by inducement or contributorily, literally or under the doctrine of equivalents, by making, using, offering to sell, selling, leasing, distributing, causing to be distributed and sold, installing, or providing its systems, products or methods for pipe-bursting.

B. That this Court adjudge and decree that TT Technologies has not infringed and will not infringe the claims of the '271 Patent, either directly or indirectly, by inducement or contributorily, literally or under the doctrine of equivalents, by making, using, offering to sell, selling, leasing, distributing, causing to be distributed and sold, installing, or providing its systems, products or methods for pipe-bursting.

C. That this Court adjudge and decree that the claims of the '542 Patent as asserted against TT Technologies are invalid.

D. That this Court adjudge and decree that the claims of the '271 Patent as asserted against TT Technologies are invalid.

E. That this Court adjudge and decree that that the '542 Patent as asserted against TT Technologies is unenforceable.

F. That this Court adjudge and decree that that the '271 Patent as asserted against TT Technologies is unenforceable.

G. Such other and further relief as this Court may deem just and equitable.

Dated: October 9, 2008

By: /s/ Jamie A. Robinson
One of the Attorneys for Plaintiff

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