

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

SAINT-GOBAIN ABRASIVES, INC.)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	NO. 06-40056 FDS
)	
RADIAC ABRASIVES, INC.)	
)	JURY TRIAL DEMANDED
Defendant.)	
)	
)	

FIRST AMENDED COMPLAINT AND JURY DEMAND

Plaintiff, Saint-Gobain Abrasives, Inc., for its first amended complaint against defendant Radiac Abrasives, Inc. alleges as follows:

INTRODUCTION

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

PARTIES

2. Saint-Gobain Abrasives, Inc. (“Saint-Gobain”) is a Massachusetts corporation having a place of business at One New Bond Street, Box Number 15008, Worcester, Massachusetts.

3. Upon information and belief, Radiac Abrasives, Inc. (“Radiac”) is a Delaware corporation having a place of business at 1015 South College Avenue, Salem, Illinois. Radiac also has a place of business in this judicial district at 67 Millbrook Street, Worcester, Massachusetts.

JURISDICTION

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338.

5. This Court has personal jurisdiction over Radiac. On information and belief, Radiac has engaged in acts of infringement in this judicial district and conducts business in this judicial district through purposeful, continuous and systematic contacts in this judicial district.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b), because this Court can properly exercise personal jurisdiction over Defendant.

FACTS

7. U.S. Patent No. 5,037,453 (“the ‘453 patent”), titled “Abrasive Article,” was issued to Kesh S. Narayanan et al. on August 6, 1991, and assigned to Norton Company. (A copy of the ‘453 patent is attached as Exhibit A.)

8. The ‘453 patent relates generally to abrasive articles which comprise combinations of sintered sol-gel aluminous particles and friable particles.

9. U.S. Patent No. 5,110,322 (“the ‘322 patent”), titled “Abrasive Article,” was issued to Kesh S. Narayanan et al. on May 5, 1992, and assigned to Norton Company. (A copy of the ‘322 patent is attached as Exhibit B.)

10. The ‘322 patent relates generally to abrasive articles which comprise combinations of sintered sol-gel alumina particles, friable particles and at least one further abrasive material.

11. The ‘453 and ‘322 patents were duly assigned to Saint-Gobain. Saint-Gobain has been, at all times relevant to this action, and is still the owner of the ‘453 and ‘322 patents, collectively the “patents-in-suit.”

12. Saint-Gobain makes and sells abrasive articles covered by one or more claims of the patents in suit, which are duly marked with the numbers of the patents in suit.

13. Radiac manufactures and sells abrasive articles which infringe one or more claims of the patents in suit.

COUNT I

Infringement of U.S. Patent No. 5,037,453

14. The allegations of Paragraphs 1-13 are repeated and realleged as though fully set forth herein.

15. Radiac has made, sold, offered to sell, imported, and/or used in this judicial district and elsewhere in the United States, certain abrasive articles including but not limited to its abrasive wheels designated JRM5 5001 R9301-25, that directly, contributorily, or by inducement infringe at least claims 1, 3-5, 8, 11, and 12 of the '453 patent.

16. Radiac has, by its advertising, product instruction, import and/or sale of certain abrasive articles in the United States, induced infringement of at least claims 1, 3-5, 8, 11, and 12 of the '453 patent.

17. The infringement by Radiac of the '453 patent has injured Saint-Gobain and will cause Saint-Gobain irreparable injury and damage in the future unless Defendant is enjoined from infringing the '453 patent.

18. Defendant Radiac has had for some time actual knowledge of the '453 patent and has willfully, deliberately, and intentionally infringed the claims of the '453 patent.

COUNT II

Infringement of U.S. Patent No. 5,110,322

19. The allegations of Paragraphs 1-13 are repeated and realleged as though fully set forth herein.

20. Radiac has made, sold, offered to sell, imported, and/or used in this judicial district and elsewhere in the United States, certain abrasive articles including but not limited to its abrasive wheels designated JRM5 5001 R9301-25, that directly, contributorily, or by inducement infringe at least claims 1, 2, 5-8, and 13 of the '322 patent.

21. Radiac has, by its advertising, product instruction, import and/or sale of certain abrasive articles in the United States, induced infringement of at least claims 1, 2, 5-8, and 13 of the '322 patent.

22. The infringement by Radiac of the '322 patent has injured Saint-Gobain and will cause Saint-Gobain irreparable injury and damage in the future unless Radiac is enjoined from infringing the '322 patent.

23. Defendant Radiac has had for some time actual knowledge of the '322 patent and has willfully, deliberately, and intentionally infringed the claims of the '322 patent.

WHEREFORE, Saint-Gobain respectfully demands judgment against Radiac as follows:

- (a) That Radiac has infringed the '453 and '322 patents;
- (b) That Radiac and its respective agents, servants, officers, directors, employees and all persons acting in concert with them, directly or indirectly, be temporarily and permanently enjoined from infringing, inducing others to infringe, or contributing to the infringement of the '453 and '322 patents;
- (c) That Radiac be ordered to account for and pay to Plaintiff Saint-Gobain damages adequate to compensate for Radiac's infringement of the '453 and '322 patents;

(d) That a post-judgment equitable accounting of damages be ordered for the period of infringement of the '453 and '322 patents following the period of damages established by Saint-Gobain at trial;

(e) That damages be trebled for the willful, deliberate, and intentional infringement by Radiac as alleged herein in accordance with 35 U.S.C. § 284;

(f) That this case be adjudged an exceptional case under 35 U.S.C. § 285 and that Plaintiff Saint-Gobain be awarded its costs, expenses, and disbursements incurred in this action, including reasonable attorneys fees as available by law to be paid by Defendant Radiac;

(g) For an award of pre-judgment interest, post-judgment interest and costs in this action; and

(h) For such other relief to Saint-Gobain as this Court deems just and proper.

JURY DEMAND

A jury trial is demanded on all triable issues, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: May 25, 2006

Respectfully submitted,

/s/ Thomas I. Elkind
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Attorneys for Plaintiff,
SAINT-GOBAIN ABRASIVES, INC.

CERTIFICATE OF SERVICE

I, Thomas I. Elkind, hereby certify that on May 25, 2006, a true copy of Plaintiff's Amended Complaint, filed through the ECF system will be sent electronically to the following counsel for Defendants:

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/s/ Thomas I. Elkind
Thomas I. Elkind, Esq.