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U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
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GARY D. McFARLAND
CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA
NORTH PLATTE DIVISION

THE RASMUSSEN GROUP, INC.,	Civil Action No. <u>8:03CV370</u>
Plaintiff,	
v.	
DIAMOND SURFACE, INC.,	
Defendant.	JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, The Rasmussen Group, Inc. ("Rasmussen"), for its Complaint against Defendant, Diamond Surface, Inc. ("Diamond"), states and alleges as follows:

1. This is an action for patent infringement arising under the patent laws, Title 35, United States Code. The Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this district in accordance with 28 U.S.C. § 1400(b).

2. Plaintiff Rasmussen is an Iowa corporation having its principal place of business at 5550 NE 22nd St., Des Moines, Iowa 50316.

3. Defendant Diamond is a Minnesota corporation having its principal place of business at 13792 Reimer Dr., Maple Grove, Minnesota 55311.

4. On February 20, 1996, United States Patent No. 5,492,431 ("the '431 patent"), entitled "Methods For Cutting Aligned Sets Of Slots In Pavement," was duly and legally issued

in the name of James E. Rasmussen, Larry Mosher, James K. Godwin, Larry Swanda, Robert W. Given, Jerry Maynard, Thomas Sidler, Ronald E. Stewart and Richard D. Turnbow, and the entire right, title and interest in and to said patent was initially assigned to Concrete Textures, Inc., as reflected by the information appearing on the face of the patent. A copy of the aforesaid patent is attached hereto as Exhibit 1.

5. On October 4, 1999 the '431 patent was assigned to Plaintiff Rasmussen, and such assignment was recorded by the United States Patent Office on January 31, 2000. A copy of the Notice of Recordation of Assignment Document and the Assignment Document are attached hereto as Exhibit 2.

6. Defendant Diamond has manufactured, used, sold, and/or offered for sale, and is continuing to manufacture, use, sell, and/or offer for sale, slot pavement cutting devices and services which infringe the claims of the '431 patent.

7. Defendant Diamond has used its slot pavement cutting devices in a manner that infringes the claims of the '431 patent in construction projects that took place in locations including, without limitation, Dawson county, Nebraska and Lincoln county, Nebraska. Accordingly, the Court has personal jurisdiction over Defendant Diamond in this matter.

8. Plaintiff Rasmussen has been damaged by Defendant's infringement of the '431 patent and will continue to be damaged in the future unless Defendant is permanently enjoined from infringing said patent.

9. Upon information and belief, Defendant Diamond is aware that said patent has been duly and legally issued, and is aware or should be aware that Defendant's manufacture, use and sale of slot pavement cutting devices infringes the claims of the '431 patent.

10. Upon information and belief, Defendant's infringement of the claims of the '431 patent is now and has been intentional, willful and deliberate.

WHEREFORE, Plaintiff Rasmussen prays for the following relief:

- a. A judgment that Defendant has infringed United States Patent 5,492,431;
- b. An injunction enjoining and restraining Defendant, its officers, directors, agents, servants, employees, attorneys and all others acting under or through it, directly or indirectly, from infringing United States Patent No. 5,492,431;
- c. A judgment that Defendant's infringement of United States Patent No. 5,492,431 has been willful and deliberate;
- d. A judgment requiring Defendant to pay damages under 35 U.S.C. § 284 for the infringement, including treble damages, with interest;
- e. A judgment and order directing Defendant to pay the costs of this action (including all disbursements) and attorneys' fees, as provided by 35 U.S.C. § 285, with interest; and
- f. Such other and further relief as this Court may deem just and equitable.

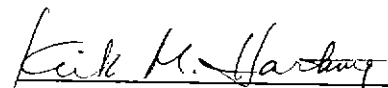
DEMAND FOR JURY TRIAL

Plaintiff Rasmussen demands a trial by jury of all issues triable of right by jury.

LOCATION OF TRIAL

Plaintiff Rasmussen hereby requests that the location of trial for this case be Omaha, Nebraska.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFF, THE
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