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**00 DEC 12 PM 3:47**  
CLERK OF U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

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

\_\_\_\_\_  
MEYER PRODUCTS COMPANY )  
a Division of The Louis Berkman Company )  
  
Plaintiff, )  
  
v. )  
  
DOUGLAS DYNAMICS, L.L.C. )  
  
Defendant. )  
\_\_\_\_\_x

**1:00CV 3090**

Civil Action No.

*JUDGE MANOS*

**MAG. JUDGE STREEPY**

**COMPLAINT AND APPLICATION FOR CONTEMPT CITATION**

Plaintiff, Meyer Products Company (hereinafter "Meyer Products"), complains against the defendant, Douglas Dynamics, L.L.C. (hereinafter "Douglas Dynamics"), as follows:

1. This is an action for patent infringement and arises under the patent laws of the United States, Title 35, United States Code.
2. Meyer Products is a division of The Louis Berkman Company, and has a place of business at 18513 Euclid Avenue, Cleveland, Ohio 44112.

3. Douglas Dynamics is a Wisconsin corporation having a place of business at 7777 North 73rd Street, Milwaukee, Wisconsin 53223, and is doing business as "Western Products".

4. On February 14, 1989, United States Letters Patent No. 4,803,790 issued to The Louis Berkman Company for an invention entitled "PLASTIC MOLDBOARD FOR SNOW PLOWS AND THE LIKE" (hereinafter "the '790 patent"). A copy of the '790 patent is attached as Exhibit A.

5. On July 11, 1989, United States Letters Patent No. 4,845,866 issued to The Louis Berkman Company for an invention entitled "PLASTIC MOLDBOARD FOR SNOW PLOWS AND THE LIKE" (hereinafter "the '866 patent"). A copy of the '866 patent is attached as Exhibit B.

6. In Civil Action No. 1:95 CV 0293, Western Products was charged with intentionally infringing the '790 patent and the '866 patent (hereinafter "said prior action").

7. In said prior action, this Court entered on April 26, 1995, a Consent Judgment and Injunction that enjoined Western Products from making and selling a polyethylene snowplow blade "which has a designed gap between the moldboard and arcuate frame braces" (hereinafter "said injunction"). (Exhibit C.)

8. Upon information and belief, Western Products has intentionally violated said injunction and is subject to a citation of contempt by this Court under Rule 70 of the Federal Rules of Civil Procedure.

9. Upon information and belief, Western Products has not complied with the order of this Court entered on April 26, 1995.

10. Upon information and belief, Western Products has and is now infringing the '790 patent by making, using, selling, and/or offering for sale a plow and/or a plow blade, as defined in one or more claims of the '790 patent, and as shown in Exhibit D attached hereto, without authority of Meyer Products and in violation of 35 U.S.C. §271(a), and will continue to do so unless again enjoined by this Court.

11. Upon information and belief, Western Products has and is now using the method as defined in one or more claims of the '790 patent without authority of Meyer Products in violation of 35 U.S.C. §271(a).

12. Upon information and belief, Western Products has and is now infringing the '866 patent by making, using, selling, and/or offering for sale a plow, as defined in one or more claims of the '866 patent, and as shown in Exhibit D attached hereto, without authority of Meyer Products and in violation of 35 U.S.C. §271(a), and will continue to do so unless again enjoined by this Court.

13. Western Products has been at all relevant times aware of the '790 patent and has knowingly and willfully infringed the same.

14. Western Products has been at all relevant times aware of the '866 patent and has knowingly and willfully infringed the same.

15. Meyer Products has been damaged and irreparably injured by such infringement by Western Products unless Western Products is again enjoined and ordered to account for damages caused by the infringement by Western Products and the violation of said injunction.

WHEREFORE, Meyer Products prays that:

- (a) Western Products be cited for contempt of this Court;
- (b) United States Letters Patent No. 4,803,790 be adjudged and decreed valid;

- (c) United States Letters Patent No. 4,845,866 be adjudged and decreed valid;
- (d) Western Products be adjudged and decreed to have infringed United States Letters Patent No. 4,803,790;
- (e) Western Products be adjudged and decreed to have infringed United States Letters Patent No. 4,845,866;
- (f) An injunction be issued restraining and enjoining Western Products, its officers, attorneys, agents, and employees or those acting in privity or concert with them, and each of them, from further infringement of United States Letters Patent No. 4,803,790 under 35 U.S.C. §283;
- (g) An injunction be issued restraining and enjoining Western Products, its officers, attorneys, agents, and employees or those acting in privity or concert with them, and each of them, from further infringement of United States Letters Patent No. 4,845,866 under 35 U.S.C. §283;
- (h) A judgment ordering Western Products to account for, and pay to Meyer Products, actual damages to Meyer Products by reason of Western Products' infringement of United States Letters Patent No. 4,803,790, together with interest thereon and enhanced under 35 U.S.C. §284;
- (i) A judgment ordering Western Products to account for, and pay to Meyer Products, actual damages to Meyer Products by reason of Western Products' infringement of United States Letters Patent No. 4,845,866, together with interest thereon and enhanced under 35 U.S.C. §284;
- (j) A judgment that Western Products deliver up for destruction plows and plow blades violating said injunction, or that Western Products perform other remedial acts that the Court deems appropriate for contempt of this Court;
- (k) This be decreed an "exceptional case" within the meaning of 35 U.S.C. §285 and reasonable attorneys' fees be awarded to Meyer Products;

- (l) Costs be awarded to Meyer Products; and,
- (m) Meyer Products be granted such other and further relief as the Court deems just and proper.

By: 

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