

COPIES OF COMPLAINT WITH ORIGINAL AND 2 COPIES OF SUMMONS AND REGISTERS CURRENT FORM ISSUED TO COUNSEL FOR PLAINTIFF

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
AKRON

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

EAST MANUFACTURING CORP.)
1871 St. Rt. 44)
P.O. Box 277)
Randolph, Ohio 44265)

Plaintiff,)

vs.)

TITAN TRAILERS, INC.)
R.R. #3)
Delhi, Ontario, Canada)
N4B 2W6)

and)

Michael Kloepfer)
an individual)
(same address))

Defendants.)

CASE NO. **5:03CV 160**
JUDGE: **JUDGE GWIN**

COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT
AND INVALIDITY OF
U.S. PATENT NO. 6,513,297

JURY TRIAL DEMANDED

Plaintiff, East Manufacturing Corporation, states as its Complaint against defendants, Titan Trailers, Inc. and Michael Kloepfer, the following:

THE PARTIES

1. Plaintiff East Manufacturing Corporation ("East"), is an Ohio corporation having corporate offices located at 1871 St. Rt. 44, P.O. Box 277, Randolph, Ohio 44265.
2. Defendant Titan Trailers, Inc. ("Titan") is a Canadian corporation having its principal place of business at R.R. #3, Delhi, Ontario, Canada N4B 2W6.

3. Defendant Michael Kloepfer (“Kloepfer”), an individual, is one of the owners of Titan and the purported owner of the patent in suit.

JURISDICTION AND VENUE

4. This is a complaint for Declaratory Judgment that United States Patent No. 6,513,297 (“the ‘297 patent”) is not infringed and is invalid. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1338, 2201 and 2202. Venue is proper in this District under 28 U.S.C. § 1391.

5. This Court has personal jurisdiction over defendants as they are doing business in this judicial district and elsewhere, including operating an Ohio Titan dealership located in Millbury, Ohio.

GENERAL ALLEGATIONS

6. Kloepfer is the purported owner of U.S. Patent No. 6,513,297 (attached as Exhibit 1) entitled “Wall Constructions.” The ‘297 patent was issued to Kloepfer on February 4, 2003 and describes a wall comprised of a welded assembly of extrusions, each extrusion having multiple internal hollows and opposing ends having a tongue and a groove, respectively, which provide the assembly of multiple extrusions, and welding recesses, which form a welding groove when the extrusions are assembled.

7. On June 18, 2003, Titan sent East a letter accusing East of infringing the ‘297 patent by manufacturing, using, selling, and offering for sale East Genesis trailers. In the same letter Titan threatened to take legal action against East if it did not immediately cease and desist from the complained of conduct. A copy of the letter is attached as Exhibit 2. On information and belief, Titan is the exclusive licensee of the ‘297 patent.

8. In view of Titan's letter threatening legal action, East has a reasonable apprehension that Titan will initiate suit if East continues to manufacture, use, sell, and offer to sell its Genesis trailers.

9. An actual controversy exists between the parties as to East's non-infringement and the invalidity of the '297 patent with respect to the products of East as set forth herein.

COUNT I

NONINFRINGEMENT

10. EAST does not make, use, sell, offer to sell or import any product covered, literally or under the Doctrine of Equivalents, by any claim of the '297 patent.

11. EAST has not directly infringed, induced the infringement of, or been a contributory infringer of the '297 patent.

COUNT II

INVALIDITY

12. EAST realleges and incorporates herein as if set forth in full paragraphs 1-11.

13. The '297 patent is invalid and unenforceable for failure to comply with the requirements of Part II of Title 35 of the United States Code, §§ 101, 102, and 103.

WHEREFORE, Plaintiff East respectfully requests that this Court enter an Order declaring that:

- (a) U.S. Patent No. 6,513,297 is invalid and/or unenforceable;
- (b) U.S. Patent No. 6,513,297 is not infringed by any product manufactured, used, sold, offered for sale, or imported by East;
- (c) Titan and all officers, employees, agents, representatives and counsel therefor, and all persons in active concert or participation with any of them, directly or indirectly, be

enjoined from charging infringement or instituting any action for infringement of U.S. Patent No. 6,513,297;

(d) This be declared an exceptional case pursuant to 35 U.S.C. § 285 and that the Court award East its reasonable attorneys fees, expenses and costs in this action; and

(e) East be granted such other and further relief as justice may require.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the 7th Amendment to the Constitution of the United States, East hereby demands a trial by jury of all issues triable as of right by jury in the above action.

Respectfully submitted,

HAHN LOESER & PARKS LLP



R. Eric Gaum, Ohio # 0066573
regaum@hahnlaw.com
Scott M. Oldham, Ohio # 0055323
smoldham@hahnlaw.com
1225 West Market Street
Akron, Ohio 44313-7188
(330) 864-5550 voice
(330) 864-7986 fax

Attorneys for Plaintiff
East Manufacturing Corporation