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4-13-05

2005 APR 13 10 02

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

5:05CV960

RUBBERMAID INCORPORATED )  
3320 W. Market Street )  
Fairlawn, Ohio 44333 )  
 )  
Plaintiff, )  
 )  
 )  
v. )  
 )  
 )  
PLANO MOLDING COMPANY )  
431 E. South Street (Route 34) )  
Plano, Illinois 60545 )  
 )  
 )  
Defendant. )

CIVIL ACTION NO. )  
**JUDGE GWIN**  
JUDGE: )

**MAG. JUDGE GALLAS**

COMPLAINT FOR PATENT INFRINGEMENT  
(JURY DEMAND)

For its Complaint against Defendant Plano Molding Company ("Plano"), Plaintiff Rubbermaid Incorporated ("Rubbermaid") states as follows:

PARTIES

1. Plaintiff Rubbermaid is a corporation organized and existing under the laws of the State of Ohio and having a place of business at 3320 W. Market Street, Fairlawn, Ohio 44333.

2. Upon information and belief, Defendant Plano is an Illinois corporation having a place of business at 431 E. South Street (Route 34), Plano, Illinois 60545 and is offering products for sale in the United States.

### **JURISDICTION**

3. This action arises under the Patent Laws of the United States, Title 35, United States Code § 271(a). This Court has jurisdiction under 28 U.S.C. § 1338(a).

4. Venue is proper in this district under 28 U.S.C. § 1391(b).

### **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 6,079,339**

5. Rubbermaid incorporates by reference herein the allegations of Paragraphs 1-4 of its Complaint.

6. Rubbermaid is engaged in the manufacture and sale of shelving products, among other things, and is the owner of U.S. Patent No. 6,079,339 (“the ‘339 Patent”) for a “Shelving System.” A true and accurate copy of the ‘339 Patent is attached as Exhibit A.

7. Plano has infringed and continues to infringe the ‘339 Patent through its manufacture, sale, offer for sale and/or use of shelving systems within the United States, illustrated in the attached Exhibit B, having substantially the same design and incorporating the novel features of the shelving system claimed in the ‘339 Patent.

8. Plano has knowingly and willfully infringed the ‘339 Patent.

9. Plano’s infringement of the ‘339 Patent has and will continue to cause Rubbermaid damage and irreparable harm unless enjoined by this Court.

**COUNT II: INFRINGEMENT OF U.S. PATENT NO. 6,178,896**

10. Rubbermaid incorporates by reference herein the allegations of Paragraphs 1-9 of its Complaint.

11. Rubbermaid is engaged in manufacture and sale of shelving products, among other things, and is the owner of U.S. Patent No. 6,178,896 (“the ‘896 Patent”) for a “Shelving System.” A true and accurate copy of the ‘896 Patent is attached as Exhibit C.

12. Plano has infringed and continues to infringe the ‘896 Patent through its manufacture, sale, offer for sale and/or use of shelving systems within the United States, illustrated in the attached Exhibit B, having substantially the same design and incorporating the novel features of the shelving system claimed in the ‘896 Patent.

13. Plano has knowingly and willfully infringed the ‘896 Patent.

14. Plano’s infringement of the ‘896 Patent has and will continue to cause Rubbermaid damage and irreparable harm unless enjoined by this Court.

**COUNT III: INFRINGEMENT OF U.S. PATENT NO. 6,820,757**

15. Rubbermaid incorporates by reference herein the allegations of Paragraphs 1-14 of its Complaint.

16. Rubbermaid is engaged in the manufacture and sale of shelving products, among other things, and is the owner of U.S. Patent No. 6,820,757 (“the ‘757 Patent”) for a “Beam Structures for Shelving Apparatus.” A true and accurate copy of the ‘757 Patent is attached as Exhibit D.

17. Plano has infringed and continues to infringe the '757 Patent through its manufacture, sale, offer for sale and/or use of shelving systems within the United States, illustrated in the attached Exhibit B, having substantially the same design and incorporating the novel features of the shelving systems claimed in the '757 Patent.

18. Plano has knowingly and willfully infringed the '757 Patent.

19. Plano's infringement of the '757 Patent has and will continue to cause Rubbermaid damage and irreparable harm unless enjoined by this Court.

### **PRAYER FOR RELIEF**

Plaintiff Rubbermaid prays for the following relief:

- A. A judgment that Plano has infringed and continues to infringe Rubbermaid's '339, '896, and '757 Patents.
- B. A judgment that Plano's infringement has been willful.
- C. A judgment against Plano awarding Rubbermaid damages pursuant to 35 U.S.C. § 284 on account of Plano's infringement of the '339, '896, and '757 Patents.
- D. A judgment that Rubbermaid's damages be trebled and that punitive damages be assessed against Plano in accordance with 35 U.S.C. § 284.
- E. A preliminary injunction against Plano and its servants, agents, officers, employees, divisions, subsidiaries and any entity acting in concert with it, pursuant to 35 U.S.C. § 283, from infringing Rubbermaid's '339, '896, and '757 Patents.
- F. A permanent injunction against Plano and its servants, agents, officers, employees, divisions, subsidiaries and any entity acting in concert with it, pursuant to 35 U.S.C. § 283, from infringing Rubbermaid's '339, '896, and '757 Patents.

G. A judgment that this is an exceptional case and that Rubbermaid be awarded reasonable attorney fees pursuant to 35 U.S.C. § 285.

H. A judgment that Plano be directed to pay Rubbermaid its costs incurred herein and such other and further relief as the Court deems just and equitable.

Respectfully submitted.

RENNER, OTTO, BOISSELLE & SKLAR, LLP

 4/13/05

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**JURY DEMAND**

Plaintiff Rubbermaid respectfully requests a trial by jury as to all issues so triable.

Respectfully submitted.



*Attorney for Rubbermaid Incorporated*