

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

FELLOWS, INC.,

Plaintiff,

$$V.$$

ACCO BRANDS CORP., and
ROYAL APPLIANCE MANUFACTURING
CO., d/b/a TTI FLOOR CARE NORTH
AMERICA, and TECHTRONIC
INDUSTRIES CO., LTD.,

Defendants.

CASE NO. 1:11-cv-04229

JUDGE GARY FEINERMAN

FIRST AMENDED COMPLAINT

Plaintiff, FELLOWES, INC. (“FELLOWES”) alleges as follows:

PARTIES

1. FELLOWES was founded in Chicago, Illinois in 1917 with the now famous Bankers Box® records storage boxes. As the workspace evolved so did FELLOWES, expanding into new categories and introducing innovative products, including the first personal shredder.

2. From its founding in Chicago, FELLOWES has expanded over the years into the United Kingdom, Canada, Australia, France, Germany, Italy, The Netherlands, Poland, Spain, Singapore, Japan, Korea, China and Russia.

3. FELLOWES is the global leader in paper shredder design and engineering, providing high quality personal and general office business shredders on the market.

4. As a result of FELLOWES' continuous product development efforts, it has invented a number of shredder improvements, including those in U.S. Patent Nos. 7,631,822,

7,631,823, 6,978,954, 7,226,009, 7,025,293, and 7,963,468, which relate to FELLOWES' 100% Jam-Proof® technology, shredder bin level sensing, or shredder ergonomics.

5. In 2005, FELLOWES introduced SafeSense® technology for shredders.

6. In 2008, FELLOWES introduced the 100% Jam-Proof® technology for shredders.

7. On information and belief, Defendant ACCO Brands Corporation ("ACCO") is a corporation existing under the laws of Illinois with a principal place of business at 300 Tower Parkway, Lincolnshire, Illinois, 60069.

8. On information and belief, ACCO makes paper shredders.

9. ACCO sells paper shredders in the United States.

10. On information and belief, ACCO products are sold to office and computer products retailers, wholesalers, mail order and Internet catalog companies, and educational institutions around the world, including in the United States and within the Northern District of Illinois.

11. On information and belief, approximately sixty percent of worldwide revenues generated by ACCO, since at least 2008, are from North America sales.

12. On information and belief, Ariel Capital Management owns about fifteen percent of ACCO.

13. Royal Appliance Manufacturing Co., d/b/a TTI Floor Care North America ("TTI-NA"), a subsidiary of TTI, is an Ohio corporation with its principal place of business in Glenwillow, Ohio.

14. On information and belief, TTI-NA markets and sells shredders to one or more retail customers that then sell the shredders in the Northern District of Illinois.

15. Techtronic Industries Co. Ltd. (“TTI-China”) (collectively with TTI-NA, “TTI DEFENDANTS” or “TTI”) is a Hong Kong corporation with its principal place of business in Tsuen Wan, New Territories, Hong Kong.

16. TTI DEFENDANTS, among other things, design, manufacture, and sell shredders for use in the disposal of paper, other paper products, compact discs and like materials.

17. TTI DEFENDANTS market and sell the shredders to one or more retail customer that sells them in the United States and elsewhere.

JURISDICTION AND VENUE

18. This is an action for patent infringement arising under the United States patent laws, 35 U.S.C. §§ 1 *et seq.*

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

20. This Court has personal jurisdiction over Defendants pursuant to at least 735 ILCS § 5/2-209 *et seq.* and the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

21. Venue properly lies in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

PATENTS-IN-SUIT

22. United States Patent No. 7,631,822 (“ ‘822 patent”) is entitled “Shredder with thickness detector.”

23. The ‘822 patent issued on December 15, 2009.

24. A copy of the ‘822 patent is attached as **Exhibit A**.

25. The ‘822 patent is assigned to FELLOWES.

26. FELLOWES is the owner of the ‘822 patent.

27. United States Patent No. 7,963,468 (the “ ‘468 patent”) is entitled “Shredder With Thickness Detector.”

28. The ‘468 patent issued on June 21, 2011.

29. A copy of the ‘468 patent is attached as **Exhibit B**.

30. The ‘468 patent is assigned to FELLOWES.

31. FELLOWES is the owner of the ‘468 patent.

FACTS

32. On information and belief, ACCO manufactures, imports into the United States, solicits sales, or sells shredders in the United States, including within the Northern District of Illinois.

33. On information and belief, TTI manufactures, imports into the United States, solicits sales, or sells shredders in the United States, including within the Northern District of Illinois.

34. On information and belief, Royal manufactures, imports into the United States, solicits sales, or sells shredders in the United States, including within the Northern District of Illinois.

35. On information and belief, ACCO and TTI DEFENDANTS (collectively “Defendants”) import into the United States, solicit sales, and sell shredders, including within the Northern District of Illinois.

36. On information and belief, Defendants distribute shredders throughout the United States, including within the Northern District of Illinois.

37. On information and belief, shredders from ACCO are currently being sold or offered for sale in the Northern District of Illinois.

38. On information and belief, shredders from TTI are currently being sold or offered for sale in the Northern District of Illinois.

39. On information and belief, shredders from TTI are currently being sold or offered for sale in the Northern District of Illinois.

40. On information and belief, ACCO manufactures, imports, and sells paper shredders under the brand name GBC® (“GBC shredders”).

41. On information and belief, ACCO is selling shredders labeled with model number GSM128 in the United States.

42. On information and belief, ACCO is selling shredders labeled with model number GDS2213 in the United States.

43. On information and belief, ACCO is selling shredders labeled with model number GLX2019 in the United States.

44. On information and belief, ACCO is selling shredders labeled with model number GDS2219 in the United States.

45. On information and belief, ACCO is selling shredders labeled with model number GLX2030 in the United States.

46. On information and belief, ACCO is selling shredders labeled with model number GLS3230 in the United States.

47. On information and belief, ACCO is selling shredders labeled with model number GLHS930 in the United States.

48. On information and belief, ACCO is selling shredders labeled with model number GLM1130 in the United States.

49. On information and belief, ACCO is selling shredders labeled with model number GDX1813 in the United States.

50. On information and belief, ACCO is selling shredders labeled with model number GSX168 in the United States.

51. On information and belief, ACCO is selling shredders labeled with model number GEX106 in the United States.

52. On information and belief, ACCO is selling shredders labeled with model number GDHS713 in the United States.

53. On information and belief, ACCO is selling shredders labeled with model number GSS208 in the United States.

54. On information and belief, TTI DEFENDANTS are selling and/or importing shredders labeled with model number SPL-TXC22A in the United States.

55. On information and belief, TTI DEFENDANTS are selling and/or importing shredders labeled with model number SPL-TXC18A in the United States.

56. On information and belief, a substantial part of the events and damages giving rise to this action occurred in the Northern District of Illinois.

57. On information and belief, Defendants have established contacts with the forum and purposefully availed themselves of this jurisdiction by committing and continuing to commit acts of patent infringement in the Northern District of Illinois, and elsewhere in the United States.

COUNT I – PATENT INFRINGEMENT OF U.S. PATENT NO. 7,963,468

58. FELLOWES incorporates paragraphs 1 through 57 above by this reference, as though fully set forth herein.

59. On information and belief, ACCO has directly infringed the '468 patent by making, using, importing, offering for sale, and/or selling in the United States, including to customers in the Northern District of Illinois, shredders covered by one or more claims of the '468 patent.

60. On information and belief, ACCO has directly infringed the '468 patent by making, using, importing, offering for sale, and/or selling in the United States at least the following shredder models: GSM128, GDS2213, GLX2019, GDS2219, GLX2030, GLS3230, GLHS930, GLM1130, GDX1813, GSX168, GEX106, GDHS713, and GSS208.

61. On information and belief, ACCO's infringement of the '468 patent has been and continues to be deliberate, and such infringement will continue unless ACCO is enjoined by this Court.

62. As a consequence of ACCO's infringement complained of herein, FELLOWES has been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

63. On information and belief, TTI has directly infringed the '468 patent by making, using, importing, offering for sale, and/or selling in the United States, including to customers in the Northern District of Illinois, shredders covered by one or more claims of the '468 patent.

64. On information and belief, TTI has directly infringed the '468 patent by making, using, importing, offering for sale, and/or selling in the United States at least the following shredder models: SPL-TXC22A and SPL-TXC18A.

65. On information and belief, TTI's infringement of the '468 patent has been and continues to be deliberate, and such infringement will continue unless TTI is enjoined by this Court.

66. As a consequence of TTI's infringement complained of herein, FELLOWES has been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

67. On information and belief, TTI has directly infringed the '468 patent by making, using, importing, offering for sale, and/or selling in the United States, including to customers in the Northern District of Illinois, shredders covered by one or more claims of the '468 patent.

68. On information and belief, TTI has directly infringed the '468 patent by making, using, importing, offering for sale, and/or selling in the United States at least the following shredder models: SPL-TXC22A and SPL-TXC18A.

69. On information and belief, TTI's infringement of the '468 patent has been and continues to be deliberate, and such infringement will continue unless TTI is enjoined by this Court.

70. As a consequence of TTI's infringement complained of herein, FELLOWES has been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

COUNT II – PATENT INFRINGEMENT OF U.S. PATENT NO. 7,631,822

71. FELLOWES incorporates paragraphs 1 through 70 above by this reference, as though fully set forth herein.

72. On information and belief, ACCO has directly infringed the '822 patent by making, using, importing, offering for sale, and/or selling in the United States, including to customers in the Northern District of Illinois, shredders covered by one or more claims of the '468 patent.

73. On information and belief, ACCO has directly infringed the '822 patent by making, using, importing, offering for sale, and/or selling in the United States at least the following shredder models: GSM128, GDS2213, GLX2019, GDS2219, GLX2030, GLS3230, GLHS930, GLM1130, GDX1813, GSX168, GEX106, GDHS713, and GSS208.

74. On information and belief, ACCO's infringement of the '822 patent has been and continues to be deliberate, and such infringement will continue unless ACCO is enjoined by this Court.

75. As a consequence of ACCO's infringement complained of herein, FELLOWES has been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

PRAYER FOR JUDGMENT AND RELIEF

WHEREFORE, FELLOWES respectfully requests judgment and relief as follows:

- (a) Pursuant to 35 U.S.C. § 271, a determination that Defendants directly infringe claims of the patents-in-suit;
- (b) Pursuant to 35 U.S.C. § 283, an order that Defendants and those in privity with them be preliminarily and permanently enjoined from infringing the patents-in-suit through the manufacture, use, import, offer for sale, and/or sale of infringing shredders;
- (c) Pursuant to 35 U.S.C. § 284, an award of damages adequate to compensate FELLOWES for infringement of the patents-in-suit, together with prejudgment interest, costs and disbursements as fixed by the Court;
- (d) An award of pre- and post-judgment interest as permitted; and
- (e) Such other and further relief as the Court deems equitable and just.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues.

Dated: August 19, 2011

FELLOWES, INC.

/s/ William P. Atkins

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 19th day of August, 2011, I caused a copy of Fellowes, Inc.'s **FIRST AMENDED COMPLAINT** to be filed by electronic filing. Notice of filing will be sent to all counsel by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ William P. Atkins

William P. Atkins