

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

FILED: NOVEMBER 6, 2008

08 CV 6391

FAIP NORTH AMERICA, INC.

)

JUDGE LEINENWEBER

)

Plaintiff,

)

MAGISTRATE JUDGE COX

)

BR

v.

)

Civil Action No.:\_\_\_\_\_

)

WINNERS PRODUCTS ENGINEERING

)

CANADA LTD.

)

)

Defendant.

)

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff FAIP North America, Inc., by its attorneys, complains against Defendant, Winners Products Engineering Canada Limited, as follows:

**PARTIES**

1. Plaintiff FAIP North America, Inc. (“FAIP”) is a corporation organized under the laws of the State of Illinois, with a principal place of business at 1825 Greenleaf, Elk Grove, Illinois.

2. Upon information and belief, Defendant Winners Products Engineering Canada Limited (“Winners”) is a corporation organized under the laws of Canada, with its principal place of business located at 1969 Leslie Street, Toronto, Ontario, Canada M3B 2M3.

**JURISDICTION AND VENUE**

3. This action arises under the laws of the United States prohibiting infringement of United States patents, 35 U.S.C. § 271.

4. This Court has jurisdiction over this Complaint based on 28 U.S.C. §§ 1331 and 1338(a), as federal questions are presented.

5. This Court has personal jurisdiction over Defendant by reason of the business that Defendant has transacted and continues to transact in this judicial district. In particular, Defendant has placed and continues to place products, including infringing devices, into the stream of commerce for ultimate sale and distribution within this judicial district.

6. Additionally or alternatively, this Court has personal jurisdiction over Defendant under Fed. R. Civ. P. 4(k)(2) to the extent Defendant may not be subject to the jurisdiction of any state's courts of general jurisdiction.

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400 as Defendant committed acts of infringement as complained of herein within this judicial district.

## **BACKGROUND**

### **FAIP's Business and Intellectual Property**

8. FAIP is the owner and exclusive assignee of record for United States Letters Patent No. 5,964,409 ("the '409 patent"), which was duly and legally issued on October 12, 1999, for an invention entitled "High Pressure Hose and Pressure Washer", a copy of which is attached as Exhibit A, and FAIP has the right to bring action and recover for past infringement of said Letters Patent and to enjoin future infringement thereof.

9. FAIP obtained the entire rights in the '409 patent from the individual inventors through an assignment executed on or around May 11, 1998, as recorded with the United States Patent and Trademark Office on July 2, 1997 at Reel 9254, Frame 0678.

10. On or about April 26, 2007, FAIP transmitted a letter to Winners regarding the '409 patent. This letter provided Winners with actual notice of infringement of the '409 patent.

**Defendant's Business and its Infringing Actions**

11. Upon information and belief, Defendant Winners sells high pressure hose and pressure washers to retail establishments and/or distributors in North America. Defendant competes directly with FAIP in the sales of high pressure hose and pressure washers.

12. Upon information and belief, Defendant Winners sells and/or distributes high pressure hose and pressure washers embodying the invention claimed in the '409 patent to customers in the United States. At least some of these high pressure hose and pressure washers have been and continue to be sold in this judicial district through at least Lowe's stores.

**COUNT**

**Patent Infringement of United States Patent 5,964,409**

13. FAIP repeats and realleges as if fully set forth herein the allegations of paragraph 1 through 12, inclusive.

14. FAIP has the right to recover for infringement of the '409 Patent and to enjoy future infringement thereof.

15. Defendant infringes the '409 patent through, among other activities, the distribution, sale and offering for sale, within this judicial district and elsewhere, of high pressure hose and pressure washers that embody the invention claimed in the '409 patent, without authority from FAIP.

16. As a result of Defendant's infringement of the '409 patent, FAIP has been damaged and will continue to be damaged in an amount to be determined at trial. FAIP has suffered and will continue to suffer immediate and irreparable injury unless this Court enjoins the infringing activities of Defendant.

**JURY DEMAND**

17. Pursuant to Fed. R. Civ. P. 38(b), FAIP demands a trial by jury.

**PRAYER FOR RELIEF**

WHEREFORE, FAIP pray as follows:

A. That the Court enter Judgment for FAIP and against Defendant on FAIP's claims of patent infringement.

B. That Defendant be required to make an accounting to FAIP and be directed to pay over to FAIP all gains, profits and advantages realized by Defendant from the sale of goods infringing FAIP's patent from the date Defendant received notice of the '409 patent or first used such goods, whichever is later, until the present pursuant to 35 U.S.C. §284.

C. That Defendant, its officers, directors, agents, and employees and all those in active concert or participation with them who receive notice of the judgment by personal service or otherwise, be permanently enjoined from making, using, importing, selling, and offering to sell any product claimed in the patent asserted in this action by FAIP.

D. That Defendant be directed to pay an assessment of interest, including prejudgment interest, on all damages awarded under this Complaint.

E. That FAIP has such other and further relief that the Court may deem just and proper.

Respectfully submitted,

Date: November 6, 2008

By: /s/Aaron R. Feigelson  
Dennis R. Schlemmer (IL # 04287349)  
Aaron R. Feigelson (IL #6279091)  
LEYDIG, VOIT & MAYER, LTD.  
Two Prudential Plaza, Suite 4900  
Chicago, Illinois 60601  
Telephone: (312) 616-5600  
Facsimile: (312) 616-5700

Attorneys for Plaintiff  
FAIP NORTH AMERICA, INC.