

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
LAFAYETTE DIVISION

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U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF INDIANA

DIFFERENTIAL WEIGHING, INC.,)
)
Plaintiff,)
)
v.)
)
CARDINAL SCALE)
MANUFACTURING COMPANY,)
(also known as "Cardinal/Detecto"),)
)
Defendant.)

Civil Action No. **4:06CV0131AS**

JURY TRIAL DEMANDED

COMPLAINT

THE PARTIES

1. Plaintiff, Differential Weighing, Inc., ("Differential Weighing") is a corporation organized and existing under the laws of the State of Delaware with a principal place of business at 526 Earl Avenue, Lafayette, IN 47903.

2. Defendant, Cardinal Scale Manufacturing Company, which is also known as Cardinal/Detecto ("Cardinal"), on information and belief, is a Missouri corporation with a principal place of business at 203 East Daugherty Street, Webb City, Missouri 64870.

JURISDICTION AND VENUE

3. This Court has jurisdiction of this Action pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a), and 35 U.S.C. § 281.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

INFRINGEMENT OF U. S. PATENT NO. 5,001,648

5. On March 19, 1991, the United States Letters Patent No. 5,001,648 (“‘648 patent”) entitled “Method and Apparatus for a Mail Processing System” was duly and legally issued to Christopher A. Baker. Plaintiff Differential Weighing is the present assignee of the ‘648 patent.

6. Generally, the ‘648 patent discloses and claims, among other things, equipment for differential weighing and postage printing. Using differential weighing and postage printing, a user may place a pile of letters and flats on a scale. As each letter or flat is removed from the pile, the scale automatically calculates the resulting change of weight and prints the correct postage for the removed piece.

INDUSTRY RECOGNITION

7. The validity and breadth of the ‘648 patent have been widely recognized in the mail processing industry. Many mail processors use equipment for differential weighing and postage printing produced and sold by Pitney Bowes Inc. (Stamford, Connecticut), as well as most other companies making mailing equipment in the U.S. Production, use, and sale of this equipment is permitted pursuant to licenses from Differential Weighing under the ‘648 patent, for which substantial royalties are paid.

8. The present case concerns making, using, and selling by the Defendant of similar unlicensed equipment for processing mail using differential weighing and postage printing as claimed in the ‘648 patent.

DEFENDANT'S CONDUCT

9. The making, using, and selling by Defendant of equipment for differential weighing and postage printing constitutes infringement of the '648 patent.

10. Defendant Cardinal Scale Manufacturing Company, on information and belief, is presently engaged in offering for sale in this judicial district of the State of Indiana and elsewhere, mail processing devices, the construction and operation of which infringe one or more claims of the patent in suit.

THE CLAIMS

11. The Defendant has been and still is infringing the patent in suit in violation of 35 U.S.C. § 271, resulting in significant damage to Differential Weighing.

12. The Defendant, with actual knowledge of the patent in suit, with knowledge of the infringement, and without lawful justification, has willfully and deliberately infringed the patent in suit, and continues willfully and deliberately to infringe.

13. The Defendant continues willfully and deliberately to infringe the '648 patent, and will continue to do so until enjoined by this Court, and consequently, Plaintiff has no adequate remedy at law.

WHEREFORE, Differential Weighing requests:

- a. The entry of judgment holding U. S. Patent No. 5,011,648 to be good and valid, and to have been willfully and deliberately infringed by the Defendant;
- b. An order preliminarily and perpetually enjoining the Defendant and its respective officers, agents, employees, and attorneys, and all those persons in active concert or participation with them, from further acts of infringement of the '648 patent;
- c. An award of damages adequate to compensate Differential Weighing for the past infringement by the Defendant, with interest and costs as fixed by the Court, such damages to be trebled because of the willful and deliberate character of the infringement;
- d. A judgment that this case is "exceptional" in the sense of 35 U.S.C. § 285, and that Differential Weighing is entitled to an award of its reasonable attorney fees incurred in the prosecution of this action; and
- e. Such other relief as this Court may deem proper and just.

Respectfully submitted,
Differential Weighing, Inc.

Dated: September 29, 2006

By: 

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