

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THERMA-STOR LLC and)	
TECHNOLOGIES HOLDINGS CORP.,)	
)	
Plaintiffs)	
)	CIVIL ACTION NO. 09-cv-229
v.)	
)	JURY TRIAL REQUESTED
ABATEMENT TECHNOLOGIES, INC.,)	
APPLIED COMFORT PRODUCTS,)	
INC. and JOHN DOE ENTITIES 2)	
THROUGH 5,)	
)	
Defendants)	

SECOND AMENDED COMPLAINT

Plaintiff for its First Amended Complaint alleges as follows:

THE PARTIES

1. Plaintiff, Therma-Stor LLC ("Therma-Stor"), is a Nevada limited liability company having a place of business at 2001 South Stoughton Road, Madison, Wisconsin 53716.
2. Plaintiff, Technologies Holdings Corp. ("Technologies Holdings"), is a Nevada corporation having a place of business at 3737 Willowick Road, Houston, Texas 77019.
3. Plaintiff, Technologies Holdings, is the owner of U.S. Patent Nos. 7,246,503; 7,281,389 and 7,540,166. Plaintiff, Technologies Holdings, licenses the rights under U.S. Patent Nos. 7,246,503; 7,281,389 and 7,540,166 to Therma-Stor LLC.
4. On information and belief, defendant, Abatement Technologies, Inc. ("Abatement") is a Georgia corporation having a business address at 605 Satellite Boulevard, Suite 300, Suwanee, Georgia 30024.

5. Upon information and belief, Applied Comfort Products, Inc. ("Applied Comfort") is a Canadian corporation having a business and Registered Office address of 1210 Balmoral Road, Cambridge, Ontario, Canada N1T 1A5.

6. Upon information and belief, defendants, John Doe Entities 2 through 5 ("John Doe Entities") are unknown legal entities, the names and address of residence or business of which are unknown.

JURISDICTION AND VENUE

7. The defendants, Abatement, Applied Comfort and the John Doe Entities, upon information and belief, have made, used, offered for sale, sold and/or imported into the United States of America and/or its Territories products that infringe or are contributorily infringing one or more of plaintiffs' United States Letters Patents U.S. 7,246,503; 7,281,389 and 7,540,166, or have induced others to manufacture, use, sell, offer to sell and/or import into the United States of America and/or its Territories (including the Western District of Wisconsin) and elsewhere products that infringe said patents and, upon information and belief, continues to conduct such infringing activity.

8. Upon information and belief, defendants, Abatement, Applied Comfort and the John Doe Entities, have been and are doing business in Wisconsin (including the Western District), operate within Wisconsin (including the Western District), with a fair measure of permanence and continuity; have purposefully availed themselves of the privilege of conducting activities within Wisconsin (including the Western District), have established minimum contacts with Wisconsin (including the Western District), such that they should reasonably and fairly anticipate being hailed into Court in the Western District of Wisconsin; have purposefully

directed its activities at residents of Wisconsin; and at least a portion of the patent infringement claim alleged herein arises out of or is related to one or more of the foregoing activities.

9. This action is brought under the Patent Laws of the United States, United States Code, Title 35 including, without limitation, Sections 271, 281, 283, 284 and 285, and venue and jurisdiction of this court is conferred by United States Code, Title 28, Sections 1338(a), 1391(c) and 1400(b).

10. Defendants, Abatement, Applied Comfort and the John Doe Entities, are subject to the personal jurisdiction of this Court.

STATEMENT OF FACTS

11. Therma-Stor manufactures and sells residential and commercial dehumidifiers, including components therefor; pool and spa humidity controls; heat recovery water heaters; residential ventilation systems and restoration equipment.

12. United States Letters Patent 7,246,503, entitled "Enhanced Drying Dehumidifier" was issued on July 24, 2007, and has been assigned to plaintiff, Technologies Holdings, who owns said Letters Patent and licenses said Letters Patent to plaintiff, Therma-Stor. A copy of U.S. 7,246,503 was attached as Exhibit A to the First Amended Complaint.

13. United States Letters Patent 7,281,389, entitled "Enhanced Performance Dehumidifier" was issued on October 16, 2007, and has been assigned to plaintiff, Technologies Holdings, who owns said Letters Patent and licenses said Letters Patent to plaintiff, Therma-Stor. A copy of U.S. 7,281,389 was attached as Exhibit B to the First Amended Complaint.

14. United States Letters Patent 7,540,166, entitled "Enhanced Performance Dehumidifier" was issued on June 2, 2009, and has been assigned to plaintiff, Technologies

Holdings, who owns said Letters Patent and licenses said letters patent to plaintiff, Therma-Stor. A copy of U.S. 7,540,166 was attached as Exhibit C to the First Amended Complaint.

15. Upon information and belief, defendant, Abatement, manufactures, uses, sells, offers for sale and/or imports into the United States of America and/or its Territories dehumidifiers, including the "Aquatrap AT 100S LGR dehumidifier."

16. Upon information and belief, defendant, Applied Comfort, manufactures, uses, sells, offers for sale and/or imports into the United States of America and/or its territories, dehumidifiers including the "AquaTrap AT 100S LGR Dehumidifier" and/or identical or similarly constructed dehumidifiers.

17. Upon information and belief, defendants, John Doe Entities, manufacture, use, sell, offer for sale and/or import into the United States of America and/or its Territories dehumidifiers, including the "AquaTrap AT 100S LGR dehumidifier," and/or identical or similarly constructed dehumidifiers.

18. A web page from the defendant, Abatement, and a web page from a distributor demonstrating the allegedly infringing product was attached as Exhibit D to the First Amended Complaint.

19. Defendants have advertised for sale and sold in the Western District of Wisconsin and elsewhere enhanced drying and/or enhanced performance dehumidifiers, including the "Aquatrap AT 100S LGR dehumidifier."

20. Dehumidifiers, including the "Aquatrap AT 100S LGR dehumidifier," which have been manufactured, used, offered for sale and/or imported into the United States of America and/or its Territories by defendants have been shipped into the Western District of Wisconsin and elsewhere.

21. On April 20, 2009, plaintiffs submitted a letter to defendant, Abatement, notifying Abatement of its infringement of U.S. Patent Nos. 7,246,503 and 7,281,389 and demanding that Abatement cease and desist all infringement and provide an accounting.

22. On or before April 27, 2009, Abatement, through its attorneys, received plaintiffs' cease and desist letter of April 20, 2009.

23. On April 27, 2009, Abatement advertised to the marketplace an "Overstock Sale" on the AquaTrap LGR dehumidifier with "low, low, low pricing" on the units alleged to infringe plaintiffs' patents.

24. Upon information and belief, defendants, Abatement, Applied Comfort and the John Doe Entities, have infringed and/or induced others to infringe and/or contributed to the infringement and/or are likely to infringe in the future the claims of U.S. Letters Patent Nos. 7,246,503, 7,281,389 and 7,540,166 by making, using, selling, offering for sale in Wisconsin and elsewhere and/or importing into the United States of America and/or its Territories enhanced drying and/or enhanced performance dehumidifiers, including, without limitation, the "Aquatrap AT 100S LGR dehumidifier," and/or identical or similarly constructed dehumidifiers as described and claimed in said Letters Patent Nos. 7,246,503; 7,281,389 and 7,540,166 since the issuance of said Letters Patents, and threaten to, and will continue to infringe said Letters Patents, causing plaintiff great and irreparable damage unless enjoined by this Court, said infringement being without consent of plaintiffs.

25. The defendants, by their infringing activity, are causing plaintiffs irreparable damage and will continue to do so unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs, Therma-Stor LLC and Technologies Holdings Corp., pray for the following relief:

- A. This Court adjudge United States Letters Patent 7,246,503 infringed by defendants.
- B. This Court adjudge United States Letters Patent 7,281,389 infringed by defendants.
- C. This Court adjudge United States Letters Patent 7,540,166 infringed by defendants.
- D. That defendants, their officers, agents, servants, employees, and attorneys, successors and assigns, and all those in active concert or participation with any of them who receive actual notice of the order by personal service or otherwise, be enjoined during the pendency of this action, and permanently thereafter, from infringing said United States Letters Patent 7,246,503 for the remainder of the term for which said Letters Patent has been granted.
- E. That defendants, their officers, agents, servants, employees, and attorneys, successors and assigns, and all those in active concert or participation with any of them who receive actual notice of the order by personal service or otherwise, be enjoined during the pendency of this action, and permanently thereafter, from infringing said United States Letters Patent 7,281,389 for the remainder of the term for which said Letters Patent has been granted.
- F. That defendants, their officers, agents, servants, employees, and attorneys, successors and assigns, and all those in active concert or participation with any of

them who receive actual notice of the order by personal service or otherwise, be enjoined during the pendency of this action, and permanently thereafter, from infringing said United States Letters Patent 7,540,166 for the remainder of the term for which said Letters Patent has been granted.

- G. That judgment be entered awarding to plaintiff damages together with interest adequate to fully compensate for the infringement of said Letters Patents.
- H. That an assessment of costs and attorneys' fees for this action be made against the defendants.
- I. That this case be deemed exceptional under 35 U.S.C. § 285.
- J. That plaintiff be granted such other and further relief as the Court may deem just and proper.

Plaintiffs hereby request a trial by JURY.

Respectfully submitted,

s/ Aaron T. Olejniczak

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