

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PASS & SEYMOUR, INC.,

Plaintiff,

Civil Action No. 5:07-CV-00945 (NAM/DEP)

v.

**SECOND AMENDED COMPLAINT
(WITH DEMAND FOR JURY TRIAL)**

HUBBELL INCORPORATED,

Defendant.

Plaintiff Pass & Seymour, Inc. (“P&S”) by and through its attorneys, alleges for its Second Amended Complaint against defendant Hubbell Incorporated (“Hubbell”) as follows:

INTRODUCTION

1. This is an action for damages and for declaratory and injunctive relief to remedy Hubbell’s infringement of patents assigned to and owned by P&S and listed in paragraph 8 below (“the P&S patents”). The P&S patents relate generally to protective devices, such as ground fault circuit interrupters, which are designed to prevent electrocution during the use of electrical receptacles.

PARTIES

2. P&S is a corporation organized and existing under the laws of the State of New York, having its principal place of business at 50 Boyd Avenue, Syracuse, New York 13209. Since its founding over 100 hundred years ago on the banks of the Erie Canal in Syracuse, New York, P&S has improved and expanded its line of products to become one of the world’s largest manufacturers of electrical wiring devices.

3. Upon information and belief, defendant Hubbell Incorporated (“Hubbell”) is a corporation organized and existing under the laws of the State of Connecticut and having offices at 584 Derby Milford Road, Orange, Connecticut 06477-4024.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), and 35 U.S.C. § 281.

5. This Court has personal jurisdiction over Hubbell because it imports, manufactures, sells and/or offer to sells in the United States and in the Northern District of New York, ground fault circuit interrupters that infringe one of more of the P&S patents.

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c), and 28 U.S.C. § 1400(b).

FACTUAL BACKGROUND

7. P&S is a leading provider of electrical devices for use in residential and commercial construction. P&S originally invented and pioneered the ground fault circuit interrupter receptacle in the 1970’s. Ground fault circuit interrupters are intended to prevent electrocution in the event of a ground fault, which is an imbalance in the electrical current flowing in the electrical outlet. A ground fault circuit interrupter automatically detects the ground fault and opens the circuit, thereby cutting off power to the outlet and preventing electrocution. Since its pioneering work in the 1970’s, P&S has been at forefront of the development and improvement of ground fault circuit interrupters and is widely recognized as a leading provider of ground fault circuit interrupters for residential and commercial construction in the United States. P&S also provides a wide range of other electrical devices, such as

switches, receptacles and face plates, used in residential and commercial construction in the United States.

8. P&S is the owner of all right, title and interest in the P&S patents, which comprise the following:

- (a) U.S. Patent No. 5,594,398;
- (b) U.S. Patent No. 6,873,158;
- (c) U.S. Patent No. 6,980,005;
- (d) U.S. Patent No. 7,164,564;
- (e) U.S. Patent No. 7,173,799;
- (f) U.S. Patent No. 7,212,386;
- (g) U.S. Patent No. 7,256,973;
- (h) U.S. Patent No. 7,283,340; and
- (i) U.S. Patent No. 7,375,938.

9. P&S takes reasonable measures to have all products made under the P&S patents marked in accordance with 35 U.S.C. § 287.

PATENT INFRINGEMENT

10. Hubbell has been and is now directly infringing, contributorily infringing, and/or inducing infringement of at least one claim of at least one of the P&S patents, within the meaning of 35 U.S.C. § 271(a)-(c) and (g), by making, using, importing, offering for sale, or selling ground fault circuit interrupters.

11. On information and belief, Hubbell ground fault circuit interrupters that infringe at least one claim of at least one of the P&S patents include the following Model Nos.: (a) GFR5252A; (b) GFR5252WL; (c) GFR5252WST; (d) GF15IL; and (e) GF5252ALL.

12. Hubbell has infringed the P&S patents and, upon information and belief, Hubbell's direct, contributory and induced infringement has been and is willful and deliberate.

13. Hubbell has profited from and will continue to profit from its infringing activities.

14. P&S has been damaged by Hubbell's infringing activities and will continue to be irreparably injured unless those infringing activities are enjoined by this Court.

WHEREFORE, P&S prays that the Court:

(A) Enter judgment in favor of P&S and against all Hubbell on all counts asserted in this Complaint.

(B) Enter judgment that Hubbell has infringed U.S. Patent Nos. 5,594,398, 6,873,158, 6,980,005, 7,164,564, 7,173,799, 7,212,386, 7,256,973, 7,283,340, and 7,375,938.

(C) Enter judgment pursuant to 35 U.S.C. § 283, enjoining Hubbell, its subsidiaries, affiliates, divisions, officers, agents, servants, employees, directors, partners, representatives and all parties in active concert and/or participation with them from further infringement of U.S. Patent Nos. 5,594,398, 6,873,158, 6,980,005, 7,164,564, 7,173,799, 7,212,386, 7,256,973, 7,283,340, and 7,375,938;

(D) Award P&S all of its damages caused by Hubbell's acts of infringement, including any lost profits, together with interest and costs pursuant to 35 U.S.C. § 284;

(E) Enter judgment that Hubbell's infringement has been willful, and increase the damages to three times the amount found or assessed pursuant to 35 U.S.C. § 284;

(F) Enter judgment determining that this is an exceptional case and award P&S its attorneys' fees in this action pursuant to 35 U.S.C. § 285; and

(G) Award P&S such other and further relief as the Court may deem just and proper.

JURY DEMAND

P&S hereby requests trial by jury of all issues so triable.

Dated: January 12, 2011

Respectfully submitted,

BOND, SCHOENECK & KING, PLLC

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CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2011, I electronically filed the foregoing Second Amended Complaint (With Demand for Jury Trial) with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

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