

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

SAFCO PRODUCTS CO.,
a Minnesota corporation,

Civil Action No. 05-CV-733 MJD/JGL
(Trial by Jury Demanded)

Plaintiff,

v.

GLOBAL TOTAL OFFICE,
a Canadian corporation,

Defendant.

**COMPLAINT FOR DECLARATORY JUDGMENT
OF PATENT NON-INFRINGEMENT AND INVALIDITY**

Plaintiff Safco Products Co. ("Safco"), through counsel, brings this Complaint for Declaratory Judgment against Defendant Global Total Office ("Global") and respectfully states and alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff Safco Products Co. is a Minnesota corporation, having its principal place of business at 5600 North Highway 169, Minneapolis, Minnesota 55428. Safco's business includes, among other things, the sale of adjustable office chairs.

2. Upon information and belief, Defendant Global is a Canadian corporation with its principal place of business at 560 Supertest Road, Downsview, Ontario, Canada M3J2M7, and United States corporate headquarters at 17 West Stow Road, P.O. Box 562, Marlton, New Jersey 08053.

3. Upon information and belief, Defendant Global is the assignee of United States Patent Nos. 5,577,804 (Exhibit A), issued November 26, 1996; 5,899,530 (Exhibit B), issued

May 4, 1999; 6,019,429 (Exhibit C), issued February 1, 2000; and D420,539 (Exhibit D), issued February 15, 2000 (collectively hereinafter referred to as “the Global Patents”).

4. This is an action for declaratory judgment. There is an actual controversy between the parties with regard to Safco’s assertion of noninfringement and invalidity of the Global Patents. A reasonable apprehension of a suit for infringement of the Global Patents has been created by Global, or those acting by or for Global, with respect to Safco’s ability to make, use, sell or offer to sell its products, including at least its Ambition and Multi-Use series chairs. Global’s position alleging infringement of the Global Patents by Safco is provided in a March 3, 2005 cease and desist letter from Global’s counsel to Safco (Exhibit E).

5. This Court has subject matter jurisdiction in accordance with 28 U.S.C. §§ 2201, 2202, and 1338.

6. Upon information and belief, Global conducts business within this district and elsewhere. Further, Global notified Safco to cease and desist at Safco’s principal place of business in Minnesota. Accordingly, personal jurisdiction and venue are proper under 28 U.S.C. §§ 1391(b) and (c), and Minn. Stat. § 543.19.

COUNT I

DECLARATION OF INVALIDITY UNITED STATES PATENT NO. 5,577,804

7. U.S. Patent No. 5,577,804 is invalid for failure to meet the conditions of patentability specified in 35 U.S.C. §§ 101, 102, and/or 103, and/or failure to comply with the requirements of 35 U.S.C. § 112 and other applicable statutory sections.

COUNT II

**DECLARATION OF NONINFRINGEMENT
UNITED STATES PATENT NO. 5,577,804**

8. Safco sells adjustable office chairs. Safco's chair products, including at least its Ambition and Multi-Use series chairs, do not infringe any valid claim of U.S. Patent No. 5,577,804.

9. Safco has not directly infringed, willfully infringed, induced infringement, nor contributorily infringed any valid claim of U.S. Patent No. 5,577,804.

COUNT III

**DECLARATION OF INVALIDITY
UNITED STATES PATENT NO. 5,899,530**

10. U.S. Patent No. 5,899,530 is invalid for failure to meet the conditions of patentability specified in 35 U.S.C. §§ 101, 102, and/or 103, and/or failure to comply with the requirements of 35 U.S.C. § 112 and other applicable statutory sections.

COUNT IV

**DECLARATION OF NONINFRINGEMENT
UNITED STATES PATENT NO. 5,899,530**

11. Safco sells adjustable office chairs. Safco's chair products, including at least its Ambition and Multi-Use series chairs, do not infringe any valid claim of U.S. Patent No. 5,899,530.

12. Safco has not directly infringed, willfully infringed, induced infringement, nor contributorily infringed any valid claim of U.S. Patent No. 5,899,530.

COUNT V

**DECLARATION OF INVALIDITY
UNITED STATES PATENT NO. 6,019,429**

13. U.S. Patent No. 6,019,429 is invalid for failure to meet the conditions of patentability specified in 35 U.S.C. §§ 101, 102, and/or 103, and/or failure to comply with the requirements of 35 U.S.C. § 112 and other applicable statutory sections.

COUNT VI

**DECLARATION OF NONINFRINGEMENT
UNITED STATES PATENT NO. 6,019,429**

14. Safco sells adjustable office chairs. Safco's chair products, including at least its Ambition and Multi-Use series chairs, do not infringe any valid claim of U.S. Patent No. 6,019,429.

15. Safco has not directly infringed, willfully infringed, induced infringement, nor contributorily infringed any valid claim of U.S. Patent No. 6,019,429.

COUNT VII

**DECLARATION OF INVALIDITY
UNITED STATES PATENT NO. D420,539**

16. U.S. Patent No. D420,539 is invalid for failure to meet the conditions of patentability specified in 35 U.S.C. §§ 101, 102, and/or 103, and/or failure to comply with the requirements of 35 U.S.C. § 112 and other applicable statutory sections.

COUNT VIII

**DECLARATION OF NONINFRINGEMENT
UNITED STATES PATENT NO. D420,539**

17. Safco sells adjustable office chairs. Safco's chair products, including at least its Ambition and Multi-Use series chairs, do not infringe any valid claim of U.S. Patent No. D420,539.

18. Safco has not directly infringed, willfully infringed, induced infringement, nor contributorily infringed any valid claim of U.S. Patent No. D420,539.

JURY DEMAND

19. Pursuant to Fed.R.Civ.P. 38(b), Safco requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Safco Products Co. prays for relief as follows:

A. Declaratory judgment stating that:

1. Safco Products Co. has not directly infringed, willfully infringed, induced infringement, nor contributorily infringed any valid claim of U.S. Patent Nos. 5,577,804; 5,899,530; 6,019,429; and D420,539.

2. U.S. Patent Nos. 5,577,804; 5,899,530; 6,019,429; and D420,539 are invalid and unenforceable; and

3. Defendant Global, and those in active concert or participation with Defendant Global who receive actual notice thereof, are permanently enjoined from initiating patent infringement litigation against Safco Products Co., or threatening Safco Products Co. or any of its customers, dealers, licensees, subsidiaries, parents, agents, servants, or employees, or any prospective or present sellers, dealers, licensees, distributors, customers, or users of Safco Products Co.'s products, with patent

infringement litigation based on any or all of U.S. Patent Nos. 5,577,804; 5,899,530; 6,019,429; and D420,539, or charging any of them either verbally or in writing with infringement of any or all of U.S. Patent Nos. 5,577,804; 5,899,530; 6,019,429; and D420,539.

B. A judgment awarding damages to Safco Products Co. for its costs, disbursements, and attorneys' fees incurred in prosecuting this action, with interest, including damages for an exceptional case, pursuant to 35 U.S.C. § 285, and otherwise according to law; and

C. Such other relief as the Court may deem just, equitable, and proper.

Respectfully submitted,

**PATTERSON, THUENTE,
SKAAR & CHRISTENSEN, P.A.**

Dated: April 11, 2005

By: 

Randall T. Skaar (#165013)
Matthew T. Macari (#308717)
4800 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5740
Facsimile: (612) 349-9266

ATTORNEYS FOR SAFCO PRODUCTS CO.