

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

FILED  
CHARLOTTE, N. C.

FEB 24 2000

U. S. DISTRICT COURT  
W. DIST. OF N. C.

\_\_\_\_\_  
SPIROFLOW SYSTEMS, INC., )  
a North Carolina corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
SEMI-BULK SYSTEMS, INC., )  
a Missouri Corporation, )  
 )  
Defendant. )  
\_\_\_\_\_

Civ. A. No. 3:00CV83mck

**COMPLAINT (Jury Trial Demanded)**

**PARTIES**

1. Plaintiff Spiroflow Systems, Inc. ("Spiroflow"), by change of name from Spiroflow-Orthos Systems, Inc., is a corporation duly organized under the laws of the State of North Carolina having a principal place of business at 2806 Gray Fox Road, Monroe, NC 28110.

2. Defendant Semi-Bulk Systems, Inc. ("SBS") is a corporation duly organized under the laws of the State of Missouri having a principal place of business at 159 Cassens Court, Fenton, Missouri 63026.

**JURISDICTION**

3. This civil action arises under the Patent Laws of the United States, United States Code, Title 35, Section 1 et seq., and in particular, 35 U.S.C. § 271.

4. Jurisdiction is proper in this Court under the provisions of 28 U.S.C. § 1338(a) in that the claims of the Complaint arise under the Patent Laws of the United States.

5. Venue is proper in this Court as to the Defendant under 28 U.S.C. § 1391(b)(1), (b)(2), and (c), and 28 U.S.C. § 1400(b).

6. This Court has jurisdiction pursuant to 28 U.S.C. § 1331.

7. SBS has sufficient contacts with North Carolina to justify the assertion of personal jurisdiction over it by this Court.

#### FACTUAL BACKGROUND

8. Spiroflow and SBS both design and manufacture various types of industrial machinery. Most importantly for purposes of this action, Spiroflow and SBS both design and manufacture machinery intended to efficiently control the discharge of material from bags that are positioned such that, in the absence of such machinery, the primary bag opening allows the material in the bag to be discharged from the bag.

9. Spiroflow is the owner of all right, title, and interest in and to U.S. Pat. No. 5,787,689 (“the ’689 Patent”), entitled “BAG DISCHARGE CONSTRICTION APPARATUS AND METHOD FOR CONSTRICTION CONTROL,” which issued on August 4, 1998.

10. Spiroflow has recently learned that SBS is practicing and/or has practiced methods and/or machinery that infringe one or more claims of the ’689 Patent.

**CLAIM FOR RELIEF**  
**PATENT INFRINGEMENT**

11. SBS has infringed and continues to infringe one or more claims of the '689 Patent by making, using, selling, and offering for sale in this District and elsewhere, products and/or methods that come within the scope of the '689 Patent, all in violation of the Patent Laws of the United States, including, inter alia, 35 U.S.C. § 271.

12. SBS has knowledge of the '689 Patent; despite that knowledge, SBS continues to make, use, sell, or offer for sale infringing products and/or methods, and therefore willfully infringes the '689 Patent.

13. Upon information and belief, SBS directly copied a machine in its possession made by Spiroflow and known by SBS to be covered by the claims of the '689 Patent.

13. These acts of infringement are irreparably harming and causing damage to Spiroflow and will continue to do so unless and until restrained by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, Spiroflow prays:

A. That this Court, in accordance with 35 U.S.C. § 283, preliminarily and permanently enjoin SBS from infringing the '689 Patent and engaging in any advertising or sales of its infringing products and/or methods;

B. That Spiroflow be awarded judgment against SBS for damages resulting from SBS's infringement of the '689 Patent, that such damages be trebled in accordance with provisions of 35 U.S.C. § 284, and that Spiroflow be awarded its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

C. That this Court award Spiroflow interest, costs, and such further relief that this Court deems just and equitable;

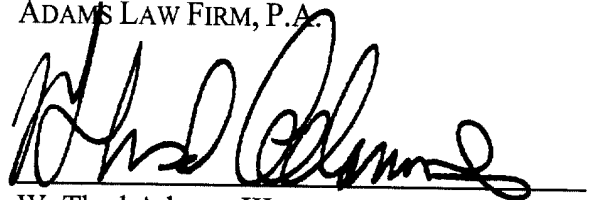
D. That this Court order SBS to pay Spiroflow all its reasonable taxable costs in a sum and manner deemed appropriate by this Court based on the deliberate and willful infringement by SBS as set forth in this Complaint; and

E. That all triable issues be tried by jury.

DATE: February 24, 2000.

Respectfully submitted,

ADAMS LAW FIRM, P.A.

A handwritten signature in black ink, appearing to read "W. Thad Adams, III", written over a horizontal line.

W. Thad Adams, III  
Attorney for Plaintiff

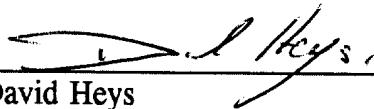
OF COUNSEL:

W. Thad Adams, III  
J. Derel Monteith, Jr.  
ADAMS LAW FIRM, P.A.  
2180 Two First Union Center  
301 S. Tryon Street  
Charlotte, NC 28282  
(704) 375-9249

**VERIFICATION OF COMPLAINT**

David Heys, being first duly sworn, deposes and says that he is the Vice President of Plaintiff Spiroflow Systems, Inc., that he has read the attached Complaint, and that the statements made therein are true except as to those matters stated upon information and belief, and as to those matters, he believes them to be true.

This, the 23 day of February, 2000.

  
\_\_\_\_\_  
David Heys  
Vice President, Spiroflow Systems, Inc.

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, RT Burleson, hereby certify and acknowledge that David Heys, Vice President of Spiroflow Systems, Inc., after being duly sworn, appeared before me this day and executed the foregoing Verification of Complaint.

This, the 23 day of February, 2000.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 8/16/2004

SEAL