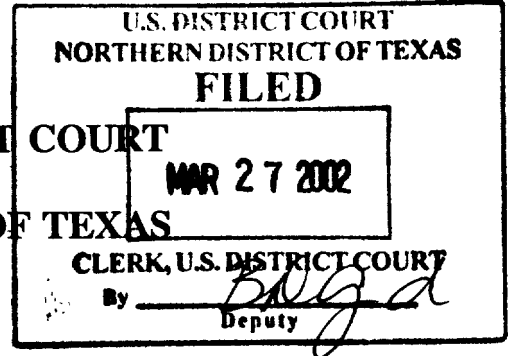


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION



SCOTT MANUFACTURING, INC.
Plaintiff

VS.

LEWIS M. CARTER MFG. CO., INC.
and
PEERLESS MANUFACTURING COMPANY
Defendants

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Civil Action No:

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PLAINTIFF'S ORIGINAL COMPLAINT

PARTIES

1. Plaintiff, Scott Manufacturing, Inc. ("SMI"), is a corporation incorporated under the laws of the State of Texas, having its principal place of business in Lubbock County, Texas.

2. Defendant, Lewis M. Carter Mfg. Co., Inc. ("LMC"), is a corporation incorporated under the laws of the State of Georgia, having its principal place of business in Donalsonville, Georgia. This Defendant does not maintain a regular place of business in Texas, nor does it have a registered agent for service of process in the State of Texas even though it is required to maintain such an agent because it does business in the State of Texas and sells products through various dealers and distributors in the Northern District of Texas, Lubbock Division. The Secretary of State of Texas is the agent for this non-resident Defendant. Service of process on Defendant LMC may be had

pursuant to § 17.044 et seq. of the Civil Practice & Remedies Code of the State of Texas by serving the Secretary of State of the State of Texas at Citations Unit, P.O. Box 12079, Austin, Texas 78711-2079.

The Secretary of the State of Texas shall notify this Defendant by mailing notice to Marvin Waddell, President, Lewis M. Carter Mfg. Co., Inc., P.O. Box 428, Donalsonville, Georgia 31745, the home office of this Defendant.

3. Defendant, Peerless Manufacturing Company ("Peerless"), is a corporation incorporated under the laws of the State of Georgia, having its principal place of business in the State of Georgia. Its registered agent for service of process in the State of Georgia is Jesse G. Bowles III, 201 Court Street, Cuthbert, Georgia 31740. This Defendant may be served with process by serving its registered agent, Jesse G. Bowles III.

JURISDICTION AND VENUE

4. Jurisdiction of this Court arises under Title 28, United States Code, § 1338(a), and under the laws of the United States concerning actions relating to patents. Venue is proper in this Court as to LMC pursuant to Title 28, United States Code, § 1391(c) by reason of the fact that LMC resides in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced. LMC has sufficient business contacts through the sale of products and a network of dealers in the Northern District of Texas, Lubbock Division, to render it subject to personal jurisdiction in the Northern District

of Texas, Lubbock Division. Venue is proper in this Court as to Peerless pursuant to Title 28, United States Code, § 1391(b).

CAUSE OF ACTION

5. On February 7, 1989, the United States Patent and Trademark Office issued United States Patent No. 4,802,604 entitled "Module Builder Back Door Latch" (the "Patent") listing Plaintiff SMI as assignee. A copy of this Patent is attached hereto as Exhibit "A" and incorporated herein by reference.

6. On October 27, 1994, Plaintiff SMI executed a "Nonexclusive License of Certain Patents and Trade Name" (the "License") to Defendant Peerless. A copy of the License is attached hereto and made a part hereof for all purposes and marked as Exhibit "B". The License was modified by Addendum on April 19, 1996. A true and correct copy of the Addendum to the License is attached hereto and made a part hereof for all purposes and marked as Exhibit "C".

7. Pursuant to the License, Defendant Peerless commenced the manufacture and sale of cotton module builders under the trade name "Big 12," each builder containing the latch which is the subject of the patent. The License required the Defendant Peerless to place certain labels upon each module builder constructed, identifying the module builder by serial number, referencing the license agreement and placing patent numbers thereon. Defendant Peerless was also required to pay royalties to the Plaintiff SMI for each module builder manufactured and to report and account for each module builder.

8. Sometime prior to February 1, 2001, Defendant Peerless and Defendant LMC conspired together whereby Defendant Peerless agreed to furnish to Defendant LMC the proprietary "Big 12" module builders containing the Patent, being manufactured by Defendant Peerless under the License from Plaintiff SMI, without reference to required labeling or the Patent. This agreement required Defendant Peerless to reverse the paint scheme upon the Big 12 module builder and to delete all reference to "Big 12", Plaintiff SMI, the License and the Patent. Defendant Peerless was further required to place new serial numbers and decals upon the module builders reflecting that the module builders were manufactured by Defendant LMC.

9. The Defendants Peerless and LMC further took the operating and parts manual for the "Big 12" cotton module builder and modified the manual to reflect that the cotton module builders were manufactured by LMC when in fact they were manufactured by Defendant Peerless under the license.

10. The Defendant Peerless, in fact, manufactured two cotton module builders pursuant to its agreement with Defendant LMC, marking them serial numbers MBRG001 and MBRG002 with the reverse paint scheme of the Big 12 module builder, labeled the module builders as having been manufactured by Defendant LMC, and delivered the two module builders to Defendant LMC.

11. On or about February 1, 2001, Baker Truck and Implement Company of Arbyrd, Missouri, received an order from GEM Farms, Inc. for two new LMC super packer model 2000 module builders, with a cash price of \$55,000.00.

12. On August 7, 2001, Defendant LMC caused to be shipped the two module builders to Baker Truck and Implement Company in Arbyrd, Missouri. The two cotton module builders as delivered contained the serial markings of MBRG001 and MBRG002 and were labeled as having been manufactured by the Defendant LMC.

13. The two module builders contained no markings identifying that they were, in fact, "Big 12" module builders manufactured under the License, nor did they have reference to the Patent. The two cotton module builder units as manufactured contained SMI's module builder back door latch as described in the Patent.

14. Shortly after August 7, 2001, Baker Truck and Implement Company delivered the cotton module builders to Gordon Miller, the owner of GEM Farms, Inc., in Leachville, Arkansas. At the time of receipt of the cotton module builders by Gordon Miller, he was of the opinion that he was purchasing LMC cotton module builders. After receipt, Mr. Miller had technical problems with the cotton module builders, and when he confronted LMC, he discovered that the cotton module builders were in fact "Big 12" cotton module builders. On November 7, 2001, Defendant LMC allowed a credit of \$1,800.00 per cotton module builder, for a total of \$3,600.00, to Mr. Miller as a result of their deception.

15. Defendant Peerless had no authority from the Plaintiff SMI to enter into any type of arrangement with Co-Defendant LMC to manufacture for Defendant LMC the proprietary "Big 12" module builder and the patent associated therewith.

16. At the time of their agreement to manufacture and to sell cotton module builders, both of the Defendants, Peerless and LMC, knew

of SMI's patent, and that knowledge continued through the time of the delivery and sale of cotton module builders MBRG001 and MBRG002, and the sale of cotton module builders MBRG001 and MBRG002 was done with the knowledge that said sale infringed upon the patent of Plaintiff SMI.

17. The Defendant Peerless was actively engaged in inducing Co-Defendant LMC to commit patent infringement.

18. On January 3, 2002 and on January 11, 2002, notice was sent to Defendant LMC regarding the infringement. Copies of these notices are attached and made a part hereof as Exhibit "D". In response to these notices, Defendant LMC notified Plaintiff SMI by letter of January 15, 2002, and admitted causing LMC decals to be placed on units MBRG001 and MBRG002 and the purchase of the units from Co-Defendant Peerless.

19. The conduct of the Defendants in this case is such that justifies the entry of an injunction to prohibit either or both Defendants of any future infringement, that the conduct was gross and willful, and justifies the award of attorney's fees, costs, and the imposition of treble damages.

PRAYER

A. For these reasons, the Plaintiff asks for judgment that the Defendants, jointly and severally, pay to Plaintiff an amount of money for actual damages, plus the amount which the Defendants might have profited, which profit was attributable to the infringement; or, in the alternative, for statutory damages;

B. That the Court assess and increase the damages three times the amount found or assessed against the Defendants, jointly and severally;

C. That the Defendants, jointly and severally, pay to Plaintiff the amount of \$50,000.00 as reasonable attorney's fees and costs of court as this is an exceptional case, involving the Defendants' wanton disregard of the Plaintiff's patent;

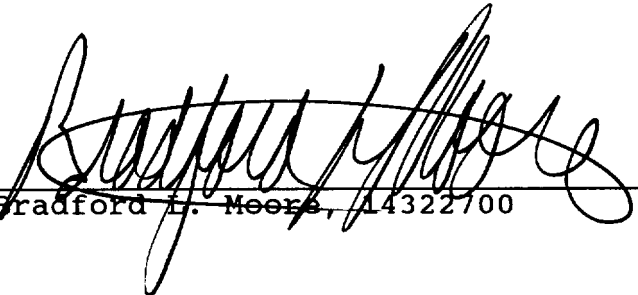
D. That the Defendants be permanently enjoined from infringing upon the Plaintiff's patent; and

E. Plaintiff have all other relief that the Court deems appropriate.

Respectfully submitted,

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BY:



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