

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

SOUTHCO, INC.,

Plaintiff,

v.

PENN ENGINEERING &
MANUFACTURING CORP.,

Defendant

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:

C.A. No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Southco, Inc. by its attorneys, and for its complaint against defendant, Penn Engineering & Manufacturing, Corp., alleges, on personal knowledge as to its own activities, and on information and belief as to the activities of others, as follows:

PARTIES

1. Plaintiff, Southco, Inc. (hereinafter "Southco"), is a Delaware corporation having its principal place of business at 210 North Brinton Lake Road, Concordville, Pennsylvania 19331.
2. Defendant, Penn Engineering & Manufacturing, Corp. (hereinafter "PEM"), is a Delaware corporation having its principal place of business at 5190 Old Easton Road, Danboro, Pennsylvania 18916.

JURISDICTION AND VENUE

3. This action involves claims arising under the Patent Laws of the United States (Title 35, United States Code, Sections 271, 281, 283, 284, and 285).
4. This Court has jurisdiction over the subject matter of the causes of action stated herein pursuant to 28 U.S.C. §§ 1331 and 1338(a).
5. This Court has personal jurisdiction over PEM in that PEM is a citizen of Delaware.
6. Venue in this Court with regard to PEM is proper pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

COUNT I – INFRINGEMENT OF U.S. PATENT 5,851,095

7. Southco repeats and realleges paragraphs 1-6 of this Complaint and in addition alleges:

8. United States Patent 5,851,095 (“the ‘095 patent”) issued on December 22, 1998 on U.S. Patent Application No. 09/059,577 filed April 14, 1998 and is assigned to Southco. A copy of the ‘095 patent is attached hereto as Exhibit “A”.

9. PEM has infringed the ‘095 patent throughout the United States by, *inter alia*, making, using, importing, offering for sale and/or selling captive screw products identified as “PEM® C.A.P.S.™ - Colored Access Panel Screws” which embody the patented invention of one or more claims of the ‘095 patent. Photographs of the relevant PEM® C.A.P.S.™ - Colored Access Panel Screw are attached as Exhibit “B”.

10. PEM is on notice of their infringing activity.

11. PEM has and will continue to infringe the ‘095 patent unless restrained and enjoined by this Court.

12. PEM is engaging in this conduct willfully and in complete disregard of or indifference to Southco’s rights and interests.

13. PEM has and will by such infringing conduct continue to cause Southco irreparable harm for which there is no adequate remedy at law.

COUNT II – INFRINGEMENT OF U.S. PATENT 6,280,131

14. Southco repeats and realleges paragraphs 1-13 of this Complaint and in addition alleges:

15. United States Patent 6,280,131 (“the ‘131 patent”) issued on August 28, 2001 on U.S. Patent Application No. 09/224,129 filed December 17, 1998, which was a continuation of Application No. 09/059,577. United States Patent 6,280,131 is assigned to Southco. A copy of the ‘131 patent is attached hereto as Exhibit “C”.

16. PEM has infringed the ‘131 patent throughout the United States by, *inter alia*, making, using, importing, offering for sale and/or selling captive screw products identified as “PEM® C.A.P.S.™ - Colored Access Panel Screws” which embody the patented invention of one or more claims of the ‘131 patent. See Exhibit “B”.

17. PEM is on notice of their infringing activity.

18. PEM has and will continue to infringe the '131 patent unless restrained and enjoined by this Court.

19. PEM is engaging in this conduct willfully and in complete disregard of or indifference to Southco's rights and interests.

20. PEM has and will by such infringing conduct continue to cause Southco irreparable harm for which there is no adequate remedy at law.

COUNT III – INFRINGEMENT OF U.S. PATENT 6,468,012

21. Southco repeats and realleges paragraphs 1-20 of this Complaint and in addition alleges:

22. United States Patent 6,468,012 ("the '012 patent") issued on October 22, 2002 on U.S. Patent Application No. 09/911,940 filed July 24, 2001, which was a continuation of Application No. 09/224,129. United States Patent 6,468,012 is assigned to Southco. A copy of the '012 patent is attached hereto as Exhibit "D".

23. PEM has infringed the '012 patent within this District and elsewhere throughout the United States by, *inter alia*, making, using, importing, offering for sale and/or selling captive screw products identified as "PEM® C.A.P.S.™ - Colored Access Panel Screws" which embody the patented invention of one or more claims of the '012 patent. See Exhibit "B".

24. PEM is on notice of their infringing activity.

25. PEM has and will continue to infringe the '012 patent unless restrained and enjoined by this Court.

26. PEM is engaging in this conduct willfully and in complete disregard of or indifference to Southco's rights and interests.

27. PEM has and will by such infringing conduct continue to cause Southco irreparable harm for which there is no adequate remedy at law.

WHEREFORE, Southco prays for judgment against PEM as follows and for the following relief:

(A) that PEM be held to have infringed United States Letters Patents 5,851,095, 6,280,131, and/or 6,468,012;

(B) permanently enjoin PEM, those controlled by PEM and those acting in concert and participation with PEM from infringing, inducing and contributing to the

infringement of United States Letters Patents 5,851,095, 6,280,131, and/or 6,468,012, and specifically from directly or indirectly making, using, selling, offering for sale, or importing any products incorporating the invention claimed in the claims of United States Letters Patents 5,851,095, 6,280,131, and/or 6,468,012 during the life of the claims without the express written authorization of Southco;

(C) order PEM to account to Southco for damages sustained by Southco as a result of PEM's infringement of United States Letters Patents 5,851,095, 6,280,131, and/or 6,468,012, with interest, in an amount consistent with proof at trial and in no event less than a reasonable royalty;

(D) that PEM's infringement be found to be willful and that all damages be trebled in accordance with 35 U.S.C. § 284;

(E) that this case be declared exceptional pursuant to 35 U.S.C. § 285 and that Southco be awarded its costs, expenses, and reasonable attorneys' fees for bringing and prosecuting this action; and

(F) that this Court award Southco such other relief as this Court deems equitable and just.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Southco hereby demands a trial by a jury of on all issues so triable.

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