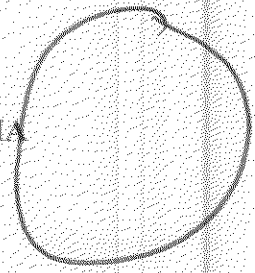


JS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA



**TYCO FIRE PRODUCTS LP d/b/a
TYCO FIRE SUPPRESSION & BUILDING
PRODUCTS**

Plaintiff,

v.

**THE RELIABLE AUTOMATIC
SPRINKLER CO., INC.**

Defendant.

CIVIL ACTION

No.: 10-cv-3447 (JS)

JURY TRIAL DEMANDED

FILED

OCT 04 2010

MICHAELE KUNZ, Clerk
BY [Signature] Dep. Clerk

SECOND AMENDED COMPLAINT

Plaintiff Tyco Fire Products LP d/b/a Tyco Fire Suppression & Building Products

("Tyco") avers as follows:

The Parties

1. Plaintiff Tyco is a limited partnership organized and existing under the laws of the State of Delaware, having its principal place of business at 451 North Cannon Avenue, Lansdale, Pennsylvania 19446.

2. Plaintiff Tyco is the assignee of record of United States Patent No. 6,059,044, No. 7,165,624, No. 7,516,800, No. 7,584,802, No. 7,730,959, No. 7,735,570, No. 7,766,091 and No. 7,802,628.

3. Plaintiff Tyco is a leading manufacturer of fire protection components.

4. Upon information and belief, Defendant The Reliable Automatic Sprinkler Co., Inc. ("Reliable") is a corporation organized and existing under the laws of the State of New York, having its principal place of business at 103 Fairview Park Drive, Elmsford, NY 10523.

5. Reliable is aware of United States Patent No. 6,059,044, No. 7,165,624, No. 7,516,800, No. 7,584,802, No. 7,730,959, No. 7,735,570, No. 7,766,091, and No. 7,802,628 and Tyco's ownership thereof.

Jurisdiction and Venue

6. This Court has original jurisdiction over the subject matter of this action pursuant to the provisions of Title 28, United States Code ("U.S.C.") §§ 1331 and 1338(a), because the action arises under the Patent Laws of the United States, title 35 U.S.C. § 1, et seq. Jurisdiction also exists pursuant to § 1332(a).

7. Defendant Reliable is subject to personal jurisdiction in this district because, *inter alia*, it directly and through its agents regularly does, solicits, and transacts business in the Eastern District of Pennsylvania and in the Commonwealth of Pennsylvania, such as by selling or offering to sell products, including its Model N252 EC Sprinkler, its K22 Magnum Model H22 ESFR Sprinkler, its JL-17 ESFR Sprinkler and its Model F3 Dry Sprinklers.

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

COUNT I

Infringement of United States Patent No. 6,059,044

9. Plaintiff Tyco hereby incorporates by reference the allegations set forth in paragraphs 1 through 8 as if fully set forth herein.

10. On May 9, 2000, United States Patent No. 6,059,044 ("the '044 patent") entitled "Fire Protection Sprinkler and Deflector" was duly and legally issued to Grinnell Corporation ("Grinnell") as assignee.

11. Grinnell assigned the '044 patent to Plaintiff Tyco Fire Products LP.

12. Possessing all substantial rights to the '044 patent and the '044 patent being in full force and effect, Plaintiff Tyco has the right to sue for any infringement thereof.

13. Defendant Reliable has infringed and is infringing the '044 patent; directly by making, using, selling, offering for sale, importing or supplying fire protection sprinklers, including the Reliable Model N252 EC Sprinkler, the Reliable K22 Magnum Model H22 ESFR Sprinkler, and the Reliable JL-17 ESFR Sprinkler; contributorily by making, using, selling, offering for sale, importing or supplying such sprinklers and having knowledge that such sprinklers are especially made or especially adapted for use in an infringement of the '044 patent; or by actively inducing the infringement of the '044 patent by making, using, selling or offering for sale such sprinklers to its customers intending that such customers will use its sprinklers in a manner that infringes the '044 patent, all in violation of 35 U.S.C. § 271 et seq., and will continue to do so unless enjoined by this Court.

14. By reason of Defendant Reliable's acts of infringement, Plaintiff Tyco has suffered and is suffering damages, including impairment of the value of the '044 patent, in an amount yet to be determined.

15. Defendant Reliable's acts of infringement are causing irreparable harm to Plaintiff Tyco and will continue to cause irreparable harm unless enjoined by this Court.

16. Upon information and belief, Defendant Reliable's infringement of the '044 patent has been and is willful and justifies a trebling of damages pursuant to 35 U.S.C. § 284. Further, this is an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT II

Infringement of United States Patent No. 7,165,624

17. Plaintiff Tyco hereby incorporates by reference the allegations set forth in

paragraphs 1 through 16 as if fully set forth herein.

18. On January 23, 2007, United States Patent No. 7,165,624 (“the ‘624 patent”) entitled “Early Suppression Fast Response Fire Protection Sprinkler” was duly and legally issued to Grinnell, as assignee.

19. Grinnell assigned the ‘624 patent to Plaintiff Tyco Fire Products LP.

20. Possessing all substantial rights to the ‘624 patent and the ‘624 patent being in full force and effect, Plaintiff Tyco has the right to sue for any infringement thereof.

21. Defendant Reliable has infringed and is infringing the ‘624 patent, directly by making, using, selling, offering for sale, importing or supplying fire protection sprinklers, including the Reliable Model N252 EC Sprinkler; contributorily by making, using, selling, offering for sale, importing or supplying such sprinklers and having knowledge that such sprinklers are especially made or especially adapted for use in an infringement of the ‘624 patent; or by actively inducing the infringement of the ‘624 patent by making, using, selling or offering for sale such sprinklers to its customers intending that such customers will use its sprinklers in a manner that infringes the ‘624 patent, all in violation of 35 U.S.C. § 271 et seq., and will continue to do so unless enjoined by this Court.

22. By reason of Defendant Reliable’s acts of infringement, Plaintiff Tyco has suffered and is suffering damages, including impairment of the value of the ‘624 patent, in an amount yet to be determined.

23. Defendant Reliable’s acts of infringement are causing irreparable harm to Plaintiff Tyco and will continue to cause irreparable harm unless enjoined by this Court.

24. Upon information and belief, Defendant Reliable’s infringement of the ‘624 patent has been and is willful and justifies a trebling of damages pursuant to 35 U.S.C. § 284.

Further, this is an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT III

Infringement of United States Patent No. 7,584,802

25. Plaintiff Tyco hereby incorporates by reference the allegations set forth in paragraphs 1 through 24 as if fully set forth herein.

26. On September 8, 2009, United States Patent No. 7,584,802 ("the '802 patent") entitled "Low Pressure, Extended Coverage, Fire Protection Sprinkler" was duly and legally issued to Tyco Fire Products LP, as assignee.

27. Possessing all substantial rights to the '802 patent and the '802 patent being in full force and effect, Plaintiff Tyco has the right to sue for any infringement thereof.

28. Defendant Reliable has infringed and is infringing the '802 patent, directly by making, using, selling, offering for sale, importing or supplying fire protection sprinklers, including the Reliable Model N252 EC Sprinkler; contributorily by making, using, selling, offering for sale, importing or supplying such sprinklers and having knowledge that such sprinklers are especially made or especially adapted for use in an infringement of the '802 patent; or by actively inducing the infringement of the '802 patent by making, using, selling or offering for sale such sprinklers to its customers intending that such customers will use its sprinklers in a manner that infringes the '802 patent, all in violation of 35 U.S.C. § 271 et seq., and will continue to do so unless enjoined by this Court.

29. By reason of Defendant Reliable's acts of infringement, Plaintiff Tyco has suffered and is suffering damages, including impairment of the value of the '802 patent, in an amount yet to be determined.

30. Defendant Reliable's acts of infringement are causing irreparable harm to Plaintiff

Tyco and will continue to cause irreparable harm unless enjoined by this Court.

31. Upon information and belief, Defendant Reliable's infringement of the '802 patent has been and is willful and justifies a trebling of damages pursuant to 35 U.S.C. § 284. Further, this is an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT IV

Infringement of United States Patent No. 7,516,800

32. Plaintiff Tyco hereby incorporates by reference the allegations set forth in paragraphs 1 through 31 as if fully set forth herein.

33. On April 14, 2009, United States Patent No. 7,516,800 ("the '800 patent") entitled "Dry Sprinkler" was duly and legally issued to Tyco Fire Products, as assignee.

34. Possessing all substantial rights to the '800 patent and the '800 patent being in full force and effect, Plaintiff Tyco has the right to sue for any infringement thereof.

35. Defendant Reliable has infringed and is infringing the '800 patent; directly by making, using, selling, offering for sale, importing or supplying fire protection sprinklers, including the Reliable Model F3 Dry Sprinkler; contributorily by making, using, selling, offering for sale, importing or supplying such sprinklers and having knowledge that such sprinklers are especially made or especially adapted for use in an infringement of the '800 patent; or by actively inducing the infringement of the '800 patent by making, using, selling or offering for sale such sprinklers to its customers intending that such customers will use its sprinklers in a manner that infringes the '800 patent, all in violation of 35 U.S.C. § 271 et seq., and will continue to do so unless enjoined by this Court.

36. By reason of Defendant Reliable's acts of infringement, Plaintiff Tyco has suffered and is suffering damages, including impairment of the value of the '800 patent, in an

amount yet to be determined.

37. Defendant Reliable's acts of infringement are causing irreparable harm to Plaintiff Tyco and will continue to cause irreparable harm unless enjoined by this Court.

38. Upon information and belief, Defendant Reliable's infringement of the '800 patent has been and is willful and justifies a trebling of damages pursuant to 35 U.S.C. § 284. Further, this is an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT V

Infringement of United States Patent No. 7,730,959

39. Plaintiff Tyco hereby incorporates by reference the allegations set forth in paragraphs 1 through 38 as if fully set forth herein.

40. On June 8, 2010, United States Patent No. 7,730,959 ("the '959 patent") entitled "Early Suppression Fast Response Fire Protection Sprinkler" was duly and legally issued to Tyco Fire Products LP, as assignee.

41. Possessing all substantial rights to the '959 patent and the '959 patent being in full force and effect, Plaintiff Tyco has the right to sue for any infringement thereof.

42. Defendant Reliable has infringed and is infringing the '959 patent; directly by making, using, selling, offering for sale, importing or supplying fire protection sprinklers, including the Reliable Model N252 EC Sprinkler, the Reliable K22 Magnum Model H22 ESFR Sprinkler, and the Reliable Model JL-17 ESFR Sprinkler; contributorily by making, using, selling, offering for sale, importing or supplying such sprinklers and having knowledge that such sprinklers are especially made or especially adapted for use in an infringement of the '959 patent; or by actively inducing the infringement of the '959 patent by making, using, selling or offering for sale such sprinklers to its customers intending that such customers will use its

sprinklers in a manner that infringes the '959 patent, all in violation of 35 U.S.C. § 271 et seq., and will continue to do so unless enjoined by this Court.

43. By reason of Defendant Reliable's acts of infringement, Plaintiff Tyco has suffered and is suffering damages, including impairment of the value of the '959 patent, in an amount yet to be determined.

44. Defendant Reliable's acts of infringement are causing irreparable harm to Plaintiff Tyco and will continue to cause irreparable harm unless enjoined by this Court.

45. Upon information and belief, Defendant Reliable's infringement of the '959 patent has been and is willful and justifies a trebling of damages pursuant to 35 U.S.C. § 284. Further, this is an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT VI

Infringement of United States Patent No. 7,735,570

46. Plaintiff Tyco hereby incorporates by reference the allegations set forth in paragraphs 1 through 45 as if fully set forth herein.

47. On June 15, 2010, United States Patent No. 7,735,570 ("the '570 patent") entitled "Early Suppression Fast Response Fire Protection Sprinkler" was duly and legally issued to Tyco Fire Products LP, as assignee.

48. Possessing all substantial rights to the '570 patent and the '570 patent being in full force and effect, Plaintiff Tyco has the right to sue for any infringement thereof.

49. Defendant Reliable has infringed and is infringing the '570 patent; directly by making, using, selling, offering for sale, importing or supplying fire protection sprinklers, including the Reliable Model N252 EC Sprinkler and the Reliable Model JL-17 ESFR Sprinkler; contributorily by making, using, selling, offering for sale, importing or supplying such sprinklers

and having knowledge that such sprinklers are especially made or especially adapted for use in an infringement of the '570 patent; or by actively inducing the infringement of the '570 patent by making, using, selling or offering for sale such sprinklers to its customers intending that such customers will use its sprinklers in a manner that infringes the '570 patent, all in violation of 35 U.S.C. § 271 et seq., and will continue to do so unless enjoined by this Court.

50. By reason of Defendant Reliable's acts of infringement, Plaintiff Tyco has suffered and is suffering damages, including impairment of the value of the '570 patent, in an amount yet to be determined.

51. Defendant Reliable's acts of infringement are causing irreparable harm to Plaintiff Tyco and will continue to cause irreparable harm unless enjoined by this Court.

52. Upon information and belief, Defendant Reliable's infringement of the '570 patent has been and is willful and justifies a trebling of damages pursuant to 35 U.S.C. § 284. Further, this is an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT VII

Infringement of United States Patent No. 7,766,091

53. Plaintiff Tyco hereby incorporates by reference the allegations set forth in paragraphs 1 through 52 as if fully set forth herein.

54. On August 3, 2010, United States Patent No. 7,766,091 ("the '091 patent") entitled "Early Suppression Fast Response Fire Protection Sprinkler" was duly and legally issued to Tyco Fire Products LP, as assignee.

55. Possessing all substantial rights to the '091 patent and the '091 patent being in full force and effect, Plaintiff Tyco has the right to sue for any infringement thereof.

56. Defendant Reliable has infringed and is infringing the '091 patent; directly by

making, using, selling, offering for sale, importing or supplying fire protection sprinklers, including the Reliable Model N252 EC Sprinkler; contributorily by making, using, selling, offering for sale, importing or supplying such sprinklers and having knowledge that such sprinklers are especially made or especially adapted for use in an infringement of the '091 patent; or by actively inducing the infringement of the '091 patent by making, using, selling or offering for sale such sprinklers to its customers intending that such customers will use its sprinklers in a manner that infringes the '091 patent, all in violation of 35 U.S.C. § 271 et seq., and will continue to do so unless enjoined by this Court.

57. By reason of Defendant Reliable's acts of infringement, Plaintiff Tyco has suffered and is suffering damages, including impairment of the value of the '091 patent, in an amount yet to be determined.

58. Defendant Reliable's acts of infringement are causing irreparable harm to Plaintiff Tyco and will continue to cause irreparable harm unless enjoined by this Court.

59. Upon information and belief, Defendant Reliable's infringement of the '091 patent has been and is willful and justifies a trebling of damages pursuant to 35 U.S.C. § 284. Further, this is an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

COUNT VIII

Infringement of United States Patent No. 7,802,628

60. Plaintiff Tyco hereby incorporates by reference the allegations set forth in paragraphs 1 through 59 as if fully set forth herein.

61. On September 28, 2010, United States Patent No. 7,802,628 ("the '628 patent") entitled "Dry Sprinkler" was duly and legally issued to Tyco Fire Products, as assignee.

62. Possessing all substantial rights to the '628 patent and the '628 patent being in full

force and effect, Plaintiff Tyco has the right to sue for any infringement thereof.

63. Defendant Reliable has infringed and is infringing the '628 patent; directly by making, using, selling, offering for sale, importing or supplying fire protection sprinklers, including the Reliable Model F3 Dry Sprinkler; contributorily by making, using, selling, offering for sale, importing or supplying such sprinklers and having knowledge that such sprinklers are especially made or especially adapted for use in an infringement of the '628 patent; or by actively inducing the infringement of the '628 patent by making, using, selling or offering for sale such sprinklers to its customers intending that such customers will use its sprinklers in a manner that infringes the '628 patent, all in violation of 35 U.S.C. § 271 et seq., and will continue to do so unless enjoined by this Court.

64. By reason of Defendant Reliable's acts of infringement, Plaintiff Tyco has suffered and is suffering damages, including impairment of the value of the '628 patent, in an amount yet to be determined.

65. Defendant Reliable's acts of infringement are causing irreparable harm to Plaintiff Tyco and will continue to cause irreparable harm unless enjoined by this Court.

66. Upon information and belief, Defendant Reliable's infringement of the '628 patent has been and is willful and justifies at trebling of damages pursuant to 35 U.S.C. § 284. Further, this is an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

RELIEF REQUESTED

WHEREFORE, Plaintiff Tyco requests that the Court enter a judgment in Plaintiff Tyco's favor and against Reliable, and provide Plaintiff Tyco the following relief:

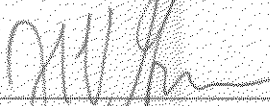
- A. Order, adjudge and decree that Defendant Reliable has infringed, the '044, '624, '802, '800, '959, '570, '091 and '628 patents in violation of 35 U.S.C. § 271;
- B. Issue preliminary and permanent injunctive relief prohibiting Defendant Reliable and its respective parents, subsidiaries, principals, officers, directors, agents, attorneys, employees and all others in privity with it from infringing the '044, '624, '802, '800, '959, '570, '091 and '628 patents, pursuant to 35 U.S.C. § 283;
- C. Award Plaintiff Tyco its damages for patent infringement, and prejudgment interest and costs against Defendant Reliable pursuant to 35 U.S.C. § 284;
- D. Order, adjudge and decree that Defendant Reliable's infringement of the '044, '624, '802, '800, '959, '570, '091 and '628 patents has been deliberate, willful and wanton;
- E. Order, adjudge and decree that Defendant Reliable's infringement of the '044, '624, '802, '800, '959, '570, '091 and '628 patents has been exceptional under 35 U.S.C. § 284;
- F. Trebling said damage award under 35 U.S.C. § 284;
- G. Award Plaintiff Tyco reasonable attorneys' fees under 35 U.S.C. § 285; and
- H. Award such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMAND

Plaintiff Tyco Fire Products LP d/b/a Tyco Fire Suppression & Building Products hereby demands a trial by jury for each and every issue so permitted by law and statute.

Respectfully submitted,

Dated: September 29, 2010

 JVC 2384

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