

LITE DEPALMA GREENBERG & RIVAS, LLC

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

StormTrap LLC,)
)
Plaintiff,)
v.)
)
Oldcastle Precast, Inc.,)
)
Defendant.)
)

Civil Action No.:

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, by and through its attorneys noted below, alleges and complains against

Defendant as follows:

Introduction

1. Plaintiff StormTrap LLC (“Plaintiff” or “StormTrap”) complains of infringement by Defendant Oldcastle Precast, Inc. (“Defendant” or “OldCastle”) of patents issued to Plaintiff concerning underground water retention methods and systems and the offer for sale, sale, and installation of an infringing system for Rutgers University.

The Parties, Jurisdiction, and Venue

2. Plaintiff StormTrap LLC is a limited liability company organized according to the laws of the State of Illinois, and has a principal place of business at 2495 West Bungalow Road, Morris, Illinois 60450.

3. On information and belief, Defendant Oldcastle Precast, Inc. is a business corporation incorporated under the laws of the State of Washington, and has a principal place of business at 1002 15th Street SW, Suite 110, Auburn, Washington 98001.

4. The present cause of action arises under the Patent Laws of the United States, Title 35 of the United States Code.

5. Subject matter jurisdiction is proper under 28 U.S.C. §§ 1331 and 1338(a).

6. Venue in this judicial district is proper under 28 U.S.C. § 1400(b) based on Defendant's acts committed during the course of its business in this judicial district.

The Patents in Suit

7. The United States Patent and Trademark Office issued United States Patent No. 6,991,402 (the '402 patent) on January 31, 2006 to StormTrap upon the application of inventor Philip J. Burkhart. The '402 patent issued with 47 claims on January 31, 2006, based on an application filed on October 17, 2002. StormTrap has been and is still the owner of the entire right, title, and interest in and to the '402 patent. A copy of the '402 patent is Attachment 1 hereto.

8. Based on a continuation application, the U.S. Patent and Trademark Office issued a second patent to StormTrap on the application referred to above. This second patent bears U.S. Patent No. 7,160,058 (the '058 patent). The '058 patent issued with 18 claims. StormTrap has

been and is still the owner of the entire right, title, and interest in and to the '058 patent. A copy of the '058 patent is Attachment 2 hereto.

Count I

9. StormTrap is in the business of providing solutions for underground storm water management. StormTrap's modular design technology allows for on-site fabrication or installation of customizable systems which fit all types of job site parameters.

10. The StormTrap modular system results from the invention of Philip J. Burkhart.

11. Rutgers, the State University of New Jersey, embarked upon a project for an underground storm water retention system referred to variously as "69 KV Substation Expansion, Piscataway, New Jersey," or "REF # 741, Bid Date 1-29-08."

12. Plaintiff and Defendant are competitors in the field of storm water detention systems.

13. Plaintiff StormTrap submitted a bid for the aforesaid Rutgers project.

14. Oldcastle Precast, Inc. through a division called "Rotondo Precast" having offices in Telford, Pennsylvania, also bid on the Rutgers project.

15. Rutgers' Purchasing Department awarded the contract to Defendant, and Defendant has installed or has begun installing a modular storm water detention system for the 69 KV Substation Expansion in Piscataway, New Jersey pursuant to the contract.

16. On February 20, 2008, counsel for Plaintiff StormTrap advised Rutgers' Purchasing Department, together with officers of Defendant Oldcastle Precast and Rotondo Precast, of StormTrap's '058 and '402 patents and asserted their applicability to the aforesaid project.

17. Up to the present time, although lawyers representing Oldcastle Precast, Inc. acknowledged receipt of the February 20, 2008 letter, neither Oldcastle Precast, Inc., nor Rutgers has denied infringement.

18. Defendant has infringed one or more of the claims of both the '402 and the '058 patents in violation of 35 U.S.C. § 271 by its offer for sale, sale, and installation in the United States and in this District of the water retention system referred to above.

19. Upon information and belief, Defendant's infringement has been, and continues to be, willful.

20. As a consequence of the infringing activities of Defendant regarding the '402 patent and the '058 patent as complained of herein, Plaintiff has suffered monetary damages in an amount not yet determined, and will continue to suffer such damages in the future unless and until Defendant's infringing activities are enjoined by this Court.

Requested Relief

WHEREFORE, Plaintiff StormTrap requests the court to do the following:

- a. Adjudge Defendant guilty of infringement of Plaintiff's '058 and '402 patents;
- b. Enjoin further acts of infringement by Defendant pursuant to 35 U.S.C. § 283;
- c. Award damages to Plaintiff pursuant to 35 U.S.C. § 284, together with interest and costs;
- d. Adjudge Defendant guilty of willful infringement;

- e. Declare this to be an exceptional case and award reasonable attorney fees to Plaintiff pursuant to 35 U.S.C. § 285; and
- f. Enter such other and further relief as the court deems just and necessary.

Jury Demanded

Plaintiff demands trial by jury of all issues so triable to a jury in this matter.

Dated: October 24, 2008

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LOCAL CIVIL RULE 11.2 CERTIFICATION

Plaintiff, by its attorneys, hereby certifies that the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

I hereby certify that the following statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: October 24, 2008

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