

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:07CV 00905

FU JIAN QUANYU INDUSTRY CO.,)
LTD.,)

Plaintiff,)

v.)

ECMD, INC., and LOWE'S)
COMPANY, INC.,)

Defendants.)

**FIRST AMENDED COMPLAINT
AND DEMAND FOR JURY TRIAL**

For its Complaint against Defendants, ECMD, Inc. ("ECMD") and Lowe's Home Centers, Inc. ("Lowe's"), Plaintiff, Fu Jian Quanyu Industry Co. Ltd. ("Fu Jian") alleges as follows:

PARTIES

1. Fu Jian is a Chinese company with its principal place of business at Xingtai Industry Area, Changtai Vill, Zhanghou, Fujian 363900, China.
2. Upon information and belief, Defendant ECMD is a North Carolina corporation with its principal place of business at 2 Grandview Street, North Wilkesboro, North Carolina, 28659. ECMD's registered agent is Edward R. Sturdivant located at the same address. Upon information and belief, ECMD manufactures and sells stair parts through a subsidiary known as Crown Heritage, and distributes such items through distributors located in the Middle District of North Carolina and across the United States.
3. Upon information and belief, Lowe's is a North Carolina corporation with its principal place of business at 1605 Curtis Bridge Road, Wilkesboro, North

Carolina, 26697. Lowe's has appointed Corporation Service Company, 327 Hillsborough Street, Raleigh, North Carolina, 27603 as its registered agent. Lowe's operates retail stores in the Middle District of North Carolina and throughout the United States.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). Upon information and belief, each Defendant has a regular and established place of business in this district, has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

INFRINGEMENT OF U.S. PATENT NO. 6,662,519

6. Fu Jian is the owner of United States Patent No. 6,662,519 (the "519 Patent") entitled "Wooden Newel Post," a true copy of which is attached as **Exhibit A**. The '519 Patent was issued on December 16, 2003.

7. Defendant ECMD has been and is now directly infringing, and indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '519 Patent in the State of North Carolina, in this judicial district, and elsewhere in the United States, by making, using, importing, offering products for sale, and/or selling products, including wooden Newel Posts manufactured and/or imported by itself or its subsidiary Crown Heritage, which are covered by one or more claims of the '519 Patent, to

the injury of Fu Jian. Defendant ECMD is thus liable for infringement of the '519 Patent pursuant to 35 U.S.C. § 271.

8. Defendant Lowe's has been and is now directly infringing, and indirectly infringing by way of inducing infringement by others and/or contributing to the infringement by others of the '519 Patent in the State of North Carolina, in this judicial district, and elsewhere in the United States, by making, using, importing, offering products for sale, and/or selling products, including distribution and sale of Wooden Newel Posts manufactured by ECDM and/or its subsidiary Crown Heritage, which are covered by one or more claims of the '519 Patent, to the injury of Fu Jian. Defendant Lowe's is thus liable for infringement of the '519 Patent pursuant to 35 U.S.C. § 271.

9. Upon information and belief, to the extent any marking was required by 35 U.S.C. § 287, Fu Jian and all predecessors in interest to the '519 Patent complied with such requirements.

10. As the result of the above Defendants' infringement of the '519 Patent, Fu Jian has suffered monetary damages that are compensable under 35 U.S.C. § 284 in an amount not yet determined, and will continue to suffer such monetary damages in the future unless Defendants' infringing activities are permanently enjoined by this Court.

11. Unless permanent injunctions are issued enjoining these Defendants and their agents, servants, employees, attorneys, representatives, affiliates, and all others acting on their behalf from infringing the '519 Patent, Fu Jian will be greatly and irreparably harmed.

12. This case presents exceptional circumstances within the meaning of 35 U.S.C. § 285 and Fu Jian is thus entitled to an award of its reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Fu Jian requests that this Court enter:

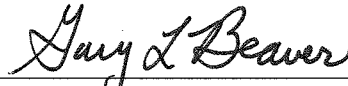
1. A judgment in favor of Fu Jian that Defendants have infringed, directly and indirectly, by way of inducing and/or contributing to the infringement of the '519 Patent;
2. A permanent injunction, enjoining Defendants and their officers, directors, agent, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with any of them from infringement, inducing the infringement of, or contributing to the infringement of the '519 Patent;
3. A judgment and order requiring Defendants to pay Fu Jian its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendants' infringement of the '519 Patent as provided under 35 U.S.C. § 284;
4. An award to Fu Jian of restitution of the benefits Defendants have gained through their unfair, deceptive, or illegal acts;
5. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Fu Jian its reasonable attorneys' fees; and
6. Any and all other relief which the Court may deem Fu Jian entitled.

DEMAND FOR JURY TRIAL

Plaintiff Fu Jian, under Rule 38 of the Federal Rules of Civil Procedure,
requests a trial by jury of any issue so triable by right.

Dated this 15th day of August, 2008.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I am an attorney at law licensed to practice in the State of North Carolina, am the attorney for the Defendants in this matter, and am a person of such age and discretion as to be competent to serve process. I also hereby certify that I electronically filed with the Clerk of Court the foregoing **FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL** using the CM/ECF system, and that the Clerk of Court will send notification of such filing to the following:

James Lee Lester
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Mark Wilson
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Attorney for Lowe's Home Center, Inc.

Dated: August 15, 2008.

/s/ Gary L. Beaver
Gary L. Beaver