

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

THE SOLLAMI COMPANY,) No. 06-CV-62
)
) Plaintiff,)
)
 vs.)
)
 KENNAMETAL INC.,)
)
) Defendant)

AMENDED COMPLAINT

Plaintiff, The Sollami Company. ("Sollami"), by its attorneys, Morella & Associates, a Professional Corporation, files this Amended Complaint and states as follows:

JURISDICTION AND VENUE

1. Plaintiff, Sollami, is a corporation organized and existing under the laws of the State of Illinois with offices located at 1200 Weaver Rd., P.O. Box 627, Herrin, IL 62948.
2. Defendant, Kennametal Inc ("Kennametal") is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with offices located at 1600 Technology Way, Latrobe, PA 15650.
3. The Court has jurisdiction of this proceeding pursuant to 28 U.S.C. §1338, as this is an action relating to patents.
4. Venue of this proceeding is proper in the Western District of Pennsylvania pursuant to 28 U.S.C. § 1400, as the Defendant has a regular and established place of business in

the Western District of Pennsylvania (*i.e.* Westmoreland County) and the Defendant has committed acts of infringement in the Western District of Pennsylvania.

COUNT I. - PATENT INFRINGEMENT

5 This cause of action arises under the patent laws of the United States and, more particularly, under 35 U.S.C.A. §§271, 282, 283, 284, and 285.

6 Sollami is the assignee/owner of certain United States Patents respecting bit holders and bit blocks for road milling, mining and trenching equipment (Letters Patent No. US 6,585,326 B2 and US 6,371,567 B1) (hereinafter the "326 Patent" and the "567 Patent", respectively). True and correct copies of the '326 Patent and the '567 Patent are attached hereto as Exhibits "A" and "B", respectively.

7 The '326 and '567 Patents generally concern tool bits, bit holders and bit blocks utilized in affixing cutting tool assemblies to various types of road milling, mining and trenching equipment.

8 The '326 and '567 Patents specifically encompass in their respective claims a bit holder with an axially oriented slot in the bit holder shank designed to facilitate a more secure fit between the bit holder and bit block or base than was previously achievable under the prior art.

9 Sollami is and has continuously been the owner of all right, title and interest in and to the inventions encompassed within the '326 Patent and the '567 Patent.

10 Kennametal has infringed the '326 Patent and the '567 Patent by manufacturing, using and marketing within this district and elsewhere a bit holder (specifically, the KPF 303 "quick change" holder and perhaps other models) for road milling, mining and trenching

equipment which infringes upon the '326 Patent and the '567 Patent and is identical or equivalent to the inventions covered by the '326 Patent and the '567 Patent.

11. Prior to the commencement of this action, Kennametal had actual notice of the '326 Patent and the '567 Patent and of Kennametal's acts of infringement.

12. As a result of Kennametal's infringement described in this Amended Complaint, Sollami has and will continue to suffer great and irreparable harm and damage, including lost profits, unless this Court enjoins Kennametal from further infringing activity.

WHEREFORE, Plaintiff requests that:

- a. Sollami be adjudged the record owner of all right, title, and interest in and to the '326 Patent and the '567 Patent.
- b. The '326 Patent and the '567 Patent be adjudged to be good and valid in law and to have been infringed by Kennametal.
- c. Kennametal, its officers, directors, servants, agents, employees, and attorneys be preliminarily enjoined pending this action against further infringement against the '326 Patent and/or the '567 Patent, and that after hearing that such injunction be made permanent.
- d. Kennametal, its officers, directors, servants, agents, employees, and attorneys be ordered to deliver up to this Court for destruction of all products infringing upon, directly or indirectly or otherwise, any claim of the '326 Patent and/or the '567 Patent.
- e. Sollami be awarded damages adequate to compensate Sollami for the infringement, including, without limitation, lost profits, such damages to be trebled because of the willful and deliberate character of the infringement, as provided by 35 U.S.C.A. § 284.
- f. Kennametal be ordered to render an accounting to Sollami to fix and determine the damages from Kennametal's infringing activity.

g. Sollami be awarded attorneys fees, as provided by 35 U.S.C.A. § 285, and the costs of this action.

h. Kennametal be ordered to deliver and pay over to Sollami all profits or income derived from the wrongful infringement.

i. Sollami be granted such other and further relief as the Court may deem just and equitable.

COUNT II- PATENT INFRINGEMENT

13. This cause of action arises under the patent laws of the United States and, more particularly, under 35 U.S.C.A. §§271, 282, 283, 284, and 285.

14. Sollami is the assignee/owner of a certain United States Patent respecting bit holders and bit blocks for road milling, mining and trenching equipment (Letters Patent No. US 6,585,327 B2) (hereinafter the "327 Patent"). A true and correct copy of the '327 Patent is attached hereto as Exhibit "C".

15. Sollami is and has continuously been the owner of all right, title and interest in and to the invention encompassed within the '327 Patent.

16. The '327 Patent generally concerns tool bits, bit holders and bit blocks utilized in affixing cutting tool assemblies to various types of road milling, mining and for trenching equipment.

17. The '327 Patent specifically encompasses in its claims a bit holder/bit block assembly with a notch incorporated in the tip of the bit holder which is designed to facilitate more easy and efficient removal of a worn bit through insertion of a pry bar or similar tool into the notch.

18. Kennametal has infringed the '327 Patent by manufacturing, using and marketing within this district and elsewhere a bit holder/bit block assembly for road milling, mining and trenching equipment which infringes upon the '327 Patent and is identical or equivalent to the type of device covered by the '327 Patent.

19. Prior to the commencement of this action, Kennametal had actual notice of the '327 Patent and of Kennametal's acts of infringement.

20. As a result of Kennametal's infringement described in this Amended Complaint Sollami has and will continue to suffer great and irreparable harm and damage, including lost profits, unless this Court enjoins Kennametal from further infringing activity.

WHEREFORE, Plaintiff requests that:

- a. Sollami be adjudged the record owner of all right, title, and interest in and to the '327 Patent.
- b. The '327 Patent be adjudged to be good and valid in law and to have been infringed by Kennametal.
- c. Kennametal, its officers, directors, servants, agents, employees, and attorneys be preliminarily enjoined pending this action against further infringement against the '327 Patent, and that after hearing that such injunction be made permanent.
- d. Kennametal, its officers, directors, servants, agents, employees, and attorneys be ordered to deliver up to this Court for destruction of all products infringing upon, directly or indirectly or otherwise, any claim of the '327 Patent.
- e. Sollami be awarded damages adequate to compensate Sollami for the infringement, including, without limitation, lost profits, such damages to be trebled because of the willful and deliberate character of the infringement, as provided by 35 U.S.C.A. § 284.

f. Kennametal be ordered to render an accounting to Sollami to fix and determine the damages from Kennametal's infringing activity.

g. Sollami be awarded attorneys fees, as provided by 35 U.S.C.A. § 285, and the costs of this action.

h. Kennametal be ordered to deliver and pay over to Sollami all profits or income derived from the wrongful infringement.

i. Sollami be granted such other and further relief as the Court may deem just and equitable.

Respectfully submitted,

MORELLA & ASSOCIATES,
A Professional Corporation

By: /s/ Jeffrey T. Morris
Jeffrey J. Morella, Esquire
PA ID No. 51329
Jeffrey T. Morris, Esquire
PA ID No. 31010
Nathan D. Clark
PA ID No. 90259

706 Rochester Road
Pittsburgh, PA 15237
(412) 369-9696

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Amended Complaint was served this 1st day of March, 2006, by U. S. First Class Mail, postage prepaid, upon the following:

Alan G. Towner, Esq.
Pietragallo Bosick & Gordon LLP
The Thirty-Eighth Floor
One Oxford Center
Pittsburgh, PA 15219

/s/ Jeffrey T. Morris

Jeffrey T. Morris, Esq.