

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

JOY MM DELAWARE INC.,
a Delaware Corporation, and
JOY TECHNOLOGIES INC. (d/b/a JOY
MINING MACHINERY),

Plaintiffs,

vs.

CINCINNATI MINE MACHINERY, CO.,
an Ohio Corporation,

Defendant.

Case No.

JURY TRIAL DEMAND

COMPLAINT FOR PATENT INFRINGEMENT

PARTIES

1. Plaintiff Joy MM Delaware, Inc. ("Joy") is a foreign corporation organized and existing under the laws of the State of Delaware and has its principal place of business at 2751 Centerville Road, Suite 342, Wilmington, Delaware 19808.

2. Plaintiff Joy Technologies Inc., d/b/a Joy Mining Machinery ("Joy Technologies") is a Pennsylvania corporation with its principal place of business at 177 Thorn Hill Road, Warrendale, Pennsylvania 15086.

3. Defendant Cincinnati Mine Machinery Co. ("Cincinnati Mine") is, on information and belief, an Ohio corporation with its principal place of business at 2950 Jonrose Avenue, Cincinnati, Ohio 45239. Cincinnati Mine does business within this District and is in the business, *inter alia*, of manufacturing and selling conveyor chains.

JURISDICTION AND VENUE

4. This is an action for patent infringement based upon the patent laws of the United States. Jurisdiction and venue are based on 28 U.S.C. §§1338(a) and 1400(b), respectively.

PATENT INFRINGEMENT OF THE '932 PATENT

5. Paragraphs 1 through 4 above are re-alleged and incorporated herein by reference.

6. On December 16, 2003, United States Patent No. 6,662,932 (the '932 patent) was duly and legally issued to Michael L. O'Neill, for an invention relating to an apparatus for a chain and flight conveyor with swivel links. A copy of the '932 patent is attached hereto as Exhibit "A" and made a part of this Complaint.

7. Joy is the owner by assignment of the '932 patent.

8. Joy Technologies is the exclusive licensee of the '932 patent.

9. Defendant has directly infringed, induced infringement, and contributorily infringed Joy's exclusive rights under the '932 patent by manufacturing, offering for sale, and/or selling a chain conveyor, which includes the embodiment of the inventions of, and is within the scope of, the '932 patent.

10. Defendant will continue to infringe and induce others to infringe unless enjoined by the Court.

11. Upon information and belief, Defendant has had actual notice of Plaintiffs' rights and has continued to willfully infringe, induce infringement, and contributorily infringe the '932 patent, and will continue to do so unless enjoined by the Court.

12. As a direct and proximate result of Defendant's infringement, Plaintiffs have suffered injury and damage, which continues to accrue in an amount to be determined at trial.

WHEREFORE, Plaintiffs pray for judgment as follows:

- a. That Defendant and their officers, agents, servants, employees, attorneys, and successors and assigns be preliminarily and permanently enjoined from infringing the '932 patent and from inducing others to infringe said patent;
- b. That Plaintiffs be awarded damages adequate to compensate for Defendant's infringement of the '932 patent;
- c. That this Court award Plaintiffs treble damages provided by 35 U.S.C. §284;
- d. That this Court render a finding that this case is "exceptional" and award Plaintiffs its costs and reasonable attorneys' fees as provided by 35 U.S.C. §285; and
- e. That Plaintiffs be awarded interest and costs and such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiffs demand that this case be tried to a jury on all issues so triable.

Dated this 22nd day of October 2009.

Pietragallo Gordon Alfano Bosick & Raspanti, LLP

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