

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

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APR 15 2003

JUDGE CASTILLO

ILLINOIS TOOL WORKS INC.)
 a Delaware corporation, and)
 ITW ANCHOR STAMPINGS,)
)
 Plaintiff,)
)
 v.)
)
 P&R FASTENERS, INC.)
 a New Jersey corporation,)
)
 Defendant.)

Civil Action No.

03C 2520

TRIAL BY JURY DEMANDED

CLERK OF COURT
MARGARET A. JUDGE
CORALINE SOY BROWN

COMPLAINT

Plaintiff, Illinois Tool Works Inc. (hereinafter "ITW"), for its complaint against defendant, alleges as follows:

INTRODUCTION

1. This is an action for infringement of United States Letters Patent No. 5,096,350 entitled Cage Nut (hereinafter the "'350 patent"), which arises under the patent laws of the United States. This Complaint comprises a cause of action for patent infringement of ITW's '350 patent, relating to a cage nut fastener. ITW seeks: permanent injunctive relief; past damages for its lost profits caused by Defendant's infringement and unlawful use and practice of the invention(s) disclosed and claimed in and by the '350 patent (including any price erosion, convoyed sales, etc.) and/or as appropriate, at a minimum, a reasonable royalty for all of the Defendant's sales of its infringing products; all other damages sustained by ITW as a result of said infringement; the trebling of all

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damages awarded to ITW as a result of Defendant's willful infringement; and, all costs and fees, including reasonable attorneys' fees, incurred by ITW in this action.

THE PARTIES

2. Plaintiff, ITW, is a Delaware corporation having its principal place of business at 3600 West Lake Avenue, Glenview, Illinois 60025. ITW designs, develops, manufactures and markets, among other things, fasteners and components, equipment and consumable systems, and specialty products and equipment.

3. ITW Anchor Stampings ("Anchor") is a division of ITW, having its principal place of business at 130 Huntingdon Avenue, Waterbury, CT 06708.

4. P&R Fasteners, Inc. ("P&R") is, upon information and belief, a New Jersey corporation having its principal place of business at 325 Pierce Street, Somersct, New Jersey 08873.

JURISDICTION AND VENUE

5. Subject matter jurisdiction of the Court is conferred by 28 U.S.C. §1338(a) as arising under title 35 U.S.C. § 1 et. seq., relating to patents. Jurisdiction also arises pursuant to 28 U.S.C. §1332 (a), the matter in controversy exceeding \$75,000.00 exclusive of interest and costs, and being between citizens of different states. Venue is established under 28 U.S.C. §1391 and 28 U.S.C. § 1400(b).

6. Upon information and belief, a reasonable opportunity for discovery will show that P&R has conducted substantial business in this judicial district and/or has committed acts of infringement within this judicial district.

THE '350 PATENT

7. On March 17, 1992, the '350 patent disclosing and claiming an invention entitled "Cage Nut" was duly and legally issued in the name of Francis C. Peterson.

8. The '350 patent was assigned to Buell Industries, Inc. ("Buell").

9. All substantial rights under the '350 patent were assigned to ITW and ITW has sufficient proprietary interests and rights in the patent in suit to prosecute this action for infringement and to collect damages, and to obtain injunctive relief for infringement.

10. By virtue of its ownership of the '350 patent, ITW has the right to exclude all others from making, using, selling or offering to sell, the embodiments of the inventions claimed in the '350 patent and to collect all damages for past infringement. ITW, through Anchor, manufactures, markets, and sells cage nuts as disclosed and claimed in the '350 patent.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 5,096,350

11. ITW repeats and realleges paragraphs 1 through 10 as though they were expressly stated herein, as and for its allegations of paragraph 11.

12. Upon information and belief, P&R manufactured, and continues to manufacture, and sold, and continues to sell, products which contain, embody, and employ the invention(s) described and claimed in the '350 patent, in violation of ITW's rights thereunder.

13. P&R's making, using, selling and offering for sale, products within the United States which contain, embody, and employ the invention(s) described and claimed in the '350 patent, constituted and, continues to constitute infringement of at least one claim of the '350 patent, as provided in 35 U.S.C. § 271.

14. As a direct and proximate result of the aforesaid infringement, ITW has been and will be greatly damaged and deprived from receiving, if such further infringement is not restrained by this Court, all the gains and profits to which ITW is lawfully entitled and which it would have derived and received and would now be deriving and receiving but for the aforesaid infringement by P&R.

15. Upon information and belief, a reasonable opportunity for discovery will show that the Defendant had notice of its infringement of the '350 patent, yet the Defendant continued to infringe.

16. Upon information and belief, a reasonable opportunity for discovery will show that the acts of infringement have been and are being committed with full knowledge of the '350 patent and in willful and wanton disregard thereof, rendering this an exceptional case under 35 U.S.C. § 285.

WHEREFORE, ITW prays for the following relief:

- A. A finding that U.S. Patent No. 5,096,350 is being infringed by P&R;
- B. An injunction permanently enjoining P&R and their officers, agents, subsidiaries, successors, servants and employees from further infringement of the '350 patent;
- C. An accounting and award of damages adequate to compensate ITW for all acts of infringement by P&R, but in no event less than a reasonable royalty for the use made of the infringed patent, together with prejudgment interest; and treble damages for willful infringement;

- D. That this case be declared exceptional and that ITW be awarded its attorneys fees pursuant to 35 U.S.C. § 285;
- E. That ITW be awarded its costs and expenses in this action; and
- F. That the Court grant ITW such other and further relief as it may deem proper.

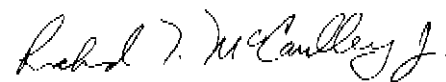
JURY DEMAND

Plaintiff, ITW, hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

Dated: April 14, 2003

By:



Richard T. McCaulley Jr. (6225586)
John L. Abramic (6274445)
McAndrews Held & Malloy
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Chicago, IL 60611
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Counsel for Plaintiff,
Illinois Tool Works Inc.

Part I

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

**Plaintiff(s): ILLINOIS TOOL WORKS INC.;
and its division ITW ANCHOR STAMPINGS**

Defendant(s): P&R FASTENERS, INC.

County of Residence: Cook

County of Residence:

1st 3rd 7/03

Plaintiff's Atty: Richard T. McCaulley
McAndrews, Held & Malloy,
Ltd.
500 w. Madison 34th Floor,
Chicago, IL 60661
312-775-8000

Defendant's Atty:

JUDGE CASTILLO

03C 2520

**MAGISTRATE JUDGE
GERALDINE SOAT BROWN**

APR 14 2003
CLERK OF COURT
NORTHERN DISTRICT OF ILLINOIS

II. Basis of Jurisdiction: **3. Federal Question (U.S. not a party)**

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: **4 IL corp or Principal place of Bus. in IL**
Defendant: **5 Non IL corp and Principal place of Business outside IL**

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **830 Patent**

VI. Cause of Action: **35 U.S.C. section 1 et. seq, relating to patents; specifically 35 U.S.C. section 281, which provides a civil action to a patentee for patent infringement. Plaintiff alleges that Defendant has infringed Plaintiff's patent.**

VII. Requested in Complaint
Class Action: **No**
Dollar Demand:
Jury Demand: **Yes**

VIII. This case IS NOT a refiling of a previously dismissed case.

Signature: *Richard T. McCaulley*

Date: *April 14, 2003*

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

EASTERN DIVISION

In the Matter of

Illinois Tool Works Inc.,
and its division ITW Anchor Stampings
v.
P&R Fasteners, Inc.

JUDGE CASTILLO

Case Number:

03C 2520

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

MAGISTRATE JUDGE
GERALDINE SOAT ESBOM

(A)		(B)	
SIGNATURE <i>Richard T. McCaulley Jr.</i>		SIGNATURE <i>John L. Abramic</i>	
NAME Richard T. McCaulley Jr.		NAME John L. Abramic	
FIRM McAndrews, Held & Malloy, Ltd.		FIRM McAndrews, Held & Malloy, Ltd.	
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CITY/STATE/ZIP Chicago, Illinois 60661		CITY/STATE/ZIP Chicago, Illinois 60661	
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IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6225586		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6274445	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(C)		(D)	
SIGNATURE		SIGNATURE	
NAME		NAME	
FIRM		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER	FAX NUMBER	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS		E-MAIL ADDRESS	
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DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	

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