

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

BETTCHER INDUSTRIES, INC.

Plaintiff,

vs.

HANTOVER, INC.,

Defendant.

CASE NO.: 3:06-CV-00741

Judge David A. Katz

**FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT – JURY  
TRIAL DEMANDED**

Pursuant to the Court’s Case Management Conference Order of June 13, 2006 [ECF # 15], which provides that pleadings may be amended prior to September 29, 2006, Plaintiff Bettcher Industries, Inc. (“Bettcher”) states as follows for its First Amended Complaint against defendant Hantover, Inc. (“Hantover”):

**Jurisdiction And Nature Of The Case**

1. Bettcher is a corporation organized and operating under the laws of the State of Delaware, with its principle place of business at 6801 State Route 60, Birmingham, Ohio 44816.

2. Upon information and belief, Hantover is a corporation organized and operating under the laws of the State of Missouri, with its principal place of business at 10301 Hickman Mills Drive, Kansas City, Missouri 64137.

3. Bettcher’s claims arise under the patent laws of the United States, specifically 35 U.S.C. sec.’s 271, 281, 283, 284 and 285, for infringement of U.S. Patent No. 7,000,325 B2 (the “325 Patent”) as well as U.S. Patent No. 6,769,184 B1 (the “184 Patent”).

4. This action is authorized by 35 U.S.C. sec. 281. The federal courts have original and exclusive jurisdiction of the action pursuant to 28 U.S.C. sec. 1338(a).

5. On information and belief, Hantover regularly conducts business within the State of Ohio and within the geographic area of the Northern District of Ohio.

6. Bettcher manufactures and sells food processing equipment and hand tools, including trimming knives and the blades utilized therein. Its products are used for various applications in the meat processing industry. Bettcher currently sells and offers for sale Whizard® rotary trimming knives and accessories, including the Whizard® Trimmer Series II products. Bettcher sells its products directly to end users through its sales network.

7. Hantover competes directly with Bettcher in the food processing equipment market, selling and offering for sale a variety of food trimming knives and accessories. Among other products, Hantover offers for sale and sells rotary knife blades. Hantover advertises that at least some of those rotary knife blades are for use as replacement blades in the Bettcher Whizard® Trimmer Series II products. Hantover has from time to time referred to these blades as “TrimIt M2 Blades.” These rotary knife blades, and any other similar products made, sold, offered for sale, or used by Hantover, regardless of the identifier utilized therefor, are the products the sale of which is accused of infringing, or inducing or contributing to the infringement, of the ‘184 Patent and/or the ‘325 Patent (the “Accused Products”).

### **The Patents**

8. On August 3, 2004, the United States Patent and Trademark Office issued U.S. Patent No. 6,769,184 B1, to Jeffrey A. Whited of Amherst, Ohio, entitled “Low Friction Rotary Knife.” A copy of the ‘184 Patent is attached hereto as Exhibit A.

9. On February 21, 2006, the United States Patent and Trademark Office issued U.S. Patent No. 7,000,325, to Jeffrey A. Whited of Amherst, Ohio, entitled “Low Friction Rotary Knife”. A copy of the ‘325 Patent is attached hereto as Exhibit B.

10. Bettcher is the assignee of all rights in the ‘184 and ‘325 Patents and has not granted any rights to Hantover to practice the ‘184 Patent or the ‘325 Patent.

**Claim One – Infringement Of The ‘184 Patent**

11. Hantover infringes claims of the ‘184 Patent, induces others so to infringe, and/or contributes to the infringement thereof by others, by making, using, selling and/or offering for sale the Accused Products, either literally or by virtue of the Doctrine of Equivalents.

12. Hantover is not authorized to practice the invention of the ‘184 Patent.

13. If Hantover is permitted to make, use, sell or offer for sale the invention claimed in the ‘184 Patent, Bettcher will suffer irreparable injury from the erosion of its patent rights in the ‘184 Patent.

14. Bettcher has suffered injury from Hantover’s infringement and is entitled to be made whole by an award of money damages in its favor.

15. Hantover’s continued infringement of the ‘184 Patent with knowledge of that Patent is willful and without reasonable justification, entitling Bettcher to enhanced damages pursuant to 35 U.S.C. sec. 284, and to an award of its attorneys’ fees and costs in the bringing and maintaining of this action pursuant to 35 U.S.C. sec. 285.

**Claim Two – Infringement Of The ‘325 Patent**

16. The allegations of paragraphs 1 through 15 of this Complaint are incorporated by reference into Claim Two of this Complaint.

17. Hantover infringes claims of the '325 Patent, induces others so to infringe, and/or contributes to the infringement thereof by others, by making, using, selling and/or offering for sale the Accused Products, either literally or by virtue of the Doctrine of Equivalents.

18. Hantover is not authorized to practice the invention of the '325 Patent.

19. If Hantover is permitted to make, use, sell or offer for sale the invention claimed in the '325 Patent, Bettcher will suffer irreparable injury from the erosion of its patent rights in the '325 Patent.

20. Bettcher has suffered injury from Hantover's infringement and is entitled to be made whole by an award of money damages in its favor.

21. Hantover's continued infringement of the '325 Patent with knowledge of that Patent is willful and without reasonable justification, entitling Bettcher to enhanced damages pursuant to 35 U.S.C. sec. 284, and to an award of its attorneys' fees and costs in the bringing and maintaining of this action pursuant to 35 U.S.C. sec. 285.

**Request For Relief**

WHEREFORE, Bettcher demands a trial by jury and demands judgment against Defendant as follows:

- A. For a preliminary and a permanent injunction enjoining Defendant, its successors and assigns, and their officers, directors, agents, servants, employees, and all entities and individuals acting in concert with them or on their behalf, from continued infringement of the '184 Patent and the '325 Patent;
- B. For an accounting of all damages and a judgment for general damages against Hantover as compensation for its use, exploitation and infringement of the '184 Patent and the '325 Patent;

- C. For an increase of all such damages to three times their amount, pursuant to 35 U.S.C. sec. 284, for willful infringement of the said patents;
- D. For the cost of this action, together with an assessment of interest and reasonable attorney fees pursuant to 35 U.S.C. sec. 285;
- E. For an award of pre-judgment interest; and
- F. For such other and further relief as this Court may deem just and proper.

**Demand For Jury Trial**

Bettcher demands a trial by jury as to all issues tryable by a jury in this action.

Dated: August 4, 2006

/s/ Thomas H. Shunk  
Thomas H. Shunk (0025793)  
Christina J. Moser (0084180)  
BAKER & HOSTETLER, LLP  
Suite 3200  
1900 E. Ninth St.  
Cleveland, Ohio 44114  
(216) 621-0200  
(216) 373-6557 (fax)  
tshunk@bakerlaw.com  
cmoser@bakerlaw.com

George Pinchak (0056196)  
Watts Hoffmann Co., LPA  
Suite 1750  
1100 Superior Ave.  
Cleveland, OH 44114  
(216) 241-6700  
(216) 241-8151 (fax)

Attorneys for Plaintiff, Bettcher Industries, Inc.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing First Amended Complaint was served upon counsel of record through the Court's electronic filing system on August 4, 2006.

/s/ Thomas H. Shunk  
An attorney for plaintiff