

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

PRECISION CONCRETE CUTTING, INC., a Utah corporation,	)	
	)	Civil Action No. 09-CV-00476
Plaintiff,	)	
v.	)	<b>Jury Trial Demanded</b>
	)	
KEVIN BOLLINGER d/b/a ASTI SAWING, an individual,	)	
	)	
Defendant.	)	
	)	

**COMPLAINT**

Plaintiff, Precision Concrete Cutting, Inc. (“Precision” or “Plaintiff”), sues Defendant, Kevin Bollinger d/b/a ASTI Sawing (“Defendant”), and for causes of action alleges as follows.

**PARTIES**

1. Plaintiff Precision is a Utah corporation having principal executive offices located at 3191 North Canyon Road, Provo, Utah 84604.
2. Defendant, upon information and belief, is an individual residing at 7454 Hwy 18-151, Barneveld, Wisconsin 53507 and is doing business in this judicial district.

**JURISDICTION AND VENUE**

3. This is a civil action for patent infringement arising under the patent laws of the United States, and more specifically, under 35 U.S.C. §§ 271, 281, 283, 284 and 285.
4. Subject matter jurisdiction in this Court is proper under 28 U.S.C. §§ 1331 and 1338(a).
5. On information and belief, Defendant has transacted business, contracted to supply goods or services, and caused injury within the state of Wisconsin, and has otherwise purposely availed itself of the privileges and benefits of the laws of the state of Wisconsin, and

has committed acts of patent infringement in this district, and thus is subject to the jurisdiction of this Court.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

**COUNT I**  
**(Infringement of U.S. Patent No. 7,402,095)**

7. Plaintiff hereby incorporates the allegations of paragraphs 1 through 6 of this Complaint as though fully set forth herein.

8. U.S. Patent No. 7,402,095 (“the ’095 Patent”) was issued on July 22, 2008, bearing the title “Method for Removing Trip Hazards in Concrete Sidewalks” (*See* Exhibit A).

9. Plaintiff is the owner of all right, title and interest in and to the ’095 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the ’095 Patent.

10. Plaintiff has not licensed or otherwise authorized Defendant to practice the ’095 Patent.

11. Defendant has infringed and continues to infringe the ’095 Patent, including without limitation, claims 1, 2, 5-7, 8, 9, and 12-14 thereof, under 35 U.S.C. § 271 by making, using, selling, and/or offering to sell products and services, including at least concrete cutting and sidewalk trip hazard removal services, in the United States, Wisconsin, and/or this judicial district.

12. Defendant’s acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of the Defendant’s wrongful acts in an amount subject to proof at trial.

13. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

14. Upon information and belief, Defendant's acts of infringement were made or will be made with knowledge of the '095 Patent. Such acts constitute willful infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285 and entitle Plaintiff to enhanced damages and reasonable attorneys' fees.

**COUNT II**  
**(Infringement of U.S. Patent No. 7,143,760)**

15. Plaintiff hereby incorporates the allegations of paragraphs 1 through 6 of this Complaint as though fully set forth herein.

16. U.S. Patent No. 7,143,760 ("the '760 Patent") was issued on December 5, 2006, bearing the title "Method for Removing Trip Hazards in Concrete Sidewalks" (*See* Exhibit B).

17. Plaintiff is the owner of all right, title and interest in and to the '760 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '760 Patent.

18. Plaintiff has not licensed or otherwise authorized Defendant to practice the '760 Patent.

19. Defendant has infringed and continues to infringe the '760 Patent, including without limitation, claims 1, 4, 11, and 14 thereof, under 35 U.S.C. § 271 by making, using, selling, and/or offering to sell products and services, including at least concrete cutting and sidewalk trip hazard removal services, in the United States, Wisconsin, and/or this judicial district.

20. Defendant's acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial.

21. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

22. Upon information and belief, Defendant's acts of infringement were made or will be made with knowledge of the '760 Patent. Such acts constitute willful infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285 and entitle Plaintiff to enhanced damages and reasonable attorneys' fees.

**COUNT III**  
**(Infringement of U.S. Patent No. 7,201,644)**

23. Plaintiff hereby incorporates the allegations of paragraphs 1 through 6 of this Complaint as though fully set forth herein.

24. U.S. Patent No. 7,201,644 ("the '644 Patent") issued on April 10, 2007, bearing the title "Apparatus for Removing Trip Hazards in Concrete Sidewalks" (*See* Exhibit C).

25. Plaintiff is the owner of all right, title and interest in and to the '644 Patent, including the right to sue for and recover all past, present and future damages for infringement of the '644 Patent.

26. Plaintiff has not licensed or otherwise authorized Defendant to practice the '644 Patent.

27. Upon information and belief, Defendant has infringed and continues to infringe the '644 Patent, including without limitation, claims 14 and 15 thereof, under 35 U.S.C. § 271 by

making, using, selling, and/or offering to sell products and services, including at least concrete cutting and sidewalk trip hazard removal services, in the United States, Wisconsin, and/or this judicial district.

28. Defendant's acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial.

29. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

30. Upon information and belief, Defendant's acts of infringement were made or will be made with knowledge of the '644 Patent. Such acts constitute willful infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285 and entitle Plaintiff to enhanced damages and reasonable attorneys' fees.

**COUNT IV**  
**(Infringement of U.S. Patent No. 6,827,074)**

31. Plaintiff hereby incorporates the allegations of paragraphs 1 through 6 of this Complaint as though fully set forth herein.

32. U.S. Patent No. 6,827,074 ("the '074 Patent") issued on December 7, 2004, bearing the title "Method and Apparatus for Removing Trip Hazards in Concrete Sidewalks" (*See Exhibit D*).

33. Plaintiff is the owner of all right, title and interest in and to the '074 Patent, including the right to sue for and recover all past, present and future damages for infringement of the '074 Patent.

34. Plaintiff has not licensed or otherwise authorized Defendant to practice the '074 Patent.

35. Upon information and belief, Defendant has infringed and continues to infringe the '074 Patent, including without limitation, claims 11 and 12 thereof, under 35 U.S.C. § 271 by making, using, selling, and/or offering to sell products and services, including at least concrete cutting and sidewalk trip hazard removal services, in the United States, Wisconsin, and/or this judicial district.

36. Defendant's acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial.

37. As a consequence of the infringement complained of herein, Plaintiff has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

38. Upon information and belief, Defendant's acts of infringement were made or will be made with knowledge of the '074 Patent. Such acts constitute willful infringement and make this case exceptional pursuant to 35 U.S.C. §§ 284 and 285 and entitle Plaintiff to enhanced damages and reasonable attorneys' fees.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for entry of judgment that:

A. The Defendant has infringed the '095 Patent, the '760 Patent, the '644 Patent and the '074 Patent;

B. The Defendant account for and pay to Plaintiff all damages caused by its infringement of the '095 Patent, the '760 Patent, the '644 Patent and the '074 Patent, and to

enhance such damages by three times in light of Defendant's willful infringement, all in accordance with 35 U.S.C. § 284;

C. Plaintiff be granted permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Defendant, its officers, agents, servants, employees and those persons in active concert or participation with them from further acts of patent infringement;

D. Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to it by reason of Defendant's patent infringement;

E. The Court declare this an exceptional case and that Plaintiff be granted its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

F. Costs be awarded to Plaintiff; and,

G. Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

**DEMAND FOR JURY TRIAL**

Plaintiff demands trial by jury on all claims and issues so triable.

DATED: July 29, 2009.

**Of Counsel:**

**JAMES B. BELSHE**

**[jbelshe@wnlaw.com](mailto:jbelshe@wnlaw.com)**

*(Pro Hac Vice Application Forthcoming)*

**MATTHEW A. BARLOW**

**[mbarlow@wnlaw.com](mailto:mbarlow@wnlaw.com)**

*(Pro Hac Vice Application Forthcoming)*

**SETH W. BLACK**

**[sblack@wnlaw.com](mailto:sblack@wnlaw.com)**

*(Pro Hac Vice Application Forthcoming)*

**WORKMAN | NYDEGGER**

1000 Eagle Gate Tower

60 East South Temple

Salt Lake City, Utah 84111

Telephone: (801) 533-9800

Facsimile: (801) 321-1707

*//s//* **Kristin Graham Noel**

**KRISTIN GRAHAM NOEL**

**[kristin.noel@quarles.com](mailto:kristin.noel@quarles.com)**

**ANDREW M. NORMAN**

**[andrew.norman@quarles.com](mailto:andrew.norman@quarles.com)**

**QUARLES and BRADY LLP**

33 East Main Street

Suite 900

Madison, Wisconsin 53703

Telephone: 608-251-5000

ATTORNEYS FOR PLAINTIFF  
PRECISION CONCRETE CUTTING, INC.