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FILED
Oct 15 3 28 PM '03
U.S. DISTRICT COURT
NEW HAVEN, CONN.

Attorneys for
Sargent Manufacturing Company, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

303CV01775 CFD

Sargent Manufacturing Company,
Plaintiff,
v.
Triangle Brass Manufacturing Company, Inc.,
d/b/a Trimco
Defendant

Case No. _____

**COMPLAINT FOR:
DECLARATORY RELIEF
DESIGN PATENT
INVALIDITY AND NON-
INFRINGEMENT**

Plaintiff, Sargent Manufacturing Company, for its Complaint against Defendant Triangle Brass Manufacturing Company, Inc. d/b/a Trimco alleges as follows:

PARTIES

1. Plaintiff, Sargent Manufacturing Company (hereinafter referred to as "Plaintiff") or "Sargent"), is a Delaware corporation with its principal place of business at 100 Sargent Drive, New Haven, Connecticut 06536 within this district.

2. Sargent is informed and believes, and on that basis alleges, that Defendant, Triangle Brass Manufacturing Company (hereinafter referred to as "Triangle Brass") is a corporation with its principal place of business at 3528 Emery Street, Los Angeles, California 90023-0277.

JURISDICTION AND VENUE

3. This court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1338(a) and 2201. This action arises, in part, under the patent laws of the United States, 35 U.S.C. §§ 1, et. seq.

4. Venue is proper in the District of Connecticut pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and/or 1400(b).

CLAIM FOR RELIEF

5. Plaintiff repeats, realleges and incorporates by reference the allegations contained in paragraphs 1 through 4.

6. On February 16, 1993 design patent application serial number 4,930 entitled "ANTI-VANDAL TRIM FOR DOOR" was filed. Said design patent application was issued on January 24, 1995 as United States Design Patent No. Des 354,670 (the "670 design patent"). On information and belief, Triangle Brass is the owner of all right, title and interest in and to the '670 design patent by way of assignment from the named inventors. A true and correct copy of the '670 patent is attached hereto as Exhibit A.

7. On June 18, 2003, attorneys for Triangle Brass wrote Sargent a letter in which it was alleged that "the manufacture, sale, offering for sale, use or importation of [the] Sargent

trims constitute infringement of the '670 patent in violation of the United States patent laws, 35 U.S.C. §§ 1 et seq.” The letter further made demand that “Sargent immediately cease and desist the manufacture, sale, offering for sale, use and/or importation of the infringing Sargent trims.” The letter concluded: “If we do not hear from you by [deadline], Trimco will have no choice but to take appropriate further action in District Court to protect its patent rights.” A true and correct copy of the June 18, 2003 letter is attached hereto as Exhibit B.

8. By reason of the June 18, 2003 letter and other acts of Triangle Brass, an actual, justiciable controversy exists between the parties with respect to the validity and enforceability of the '670 design patent. Triangle Brass asserts that this patent is valid and infringed by one of plaintiff's anti-vandal trim products (the “Sargent AVT”). Sargent manufactures and/or sells the Sargent AVT product in this district. Sargent contends that the '670 design patent is not infringed by the manufacture, sale and/or use of the Sargent AVT product and that the '670 design patent is invalid and unenforceable for the following reasons.

9. The Sargent AVT does not infringe the “670 design patent in light of the prior art, the file history, and the statements, representations, admissions, arguments and amendments made by Triangle Brass during the prosecution of the application of the '670 design patent.

10. If the '670 design patent is construed so broadly as to encompass the Sargent AVT, then the '670 design patent is invalid as anticipated under 35 U.S.C. § 102, as obvious under 35 U.S.C. § 103, and for failure to comply with the requirements of 35 U.S.C. § 112.

11. The '670 design patent is invalid on the grounds that the design shown therein is primarily functional and is determined by functional considerations, not ornamental considerations.

12. Sargent is entitled to judgment declaring that the '670 design patent is invalid and further declaring that Sargent has not infringed and does not infringe the '670 design patent.

PRAYER FOR RELIEF

WHEREFOR, Plaintiff demands:

1. Declaratory relief stating that:
 - (a) Triangle Brass is without right or authority to threaten or maintain suit against Sargent for alleged infringement of U.S. Design Patent No. Des. 354,670.
 - (b) U.S. Design Patent No. Des. 354,670 is invalid, unenforceable and/or not infringed by Sargent.
 - (c) Triangle Brass, and those in active concert or participation with Triangle Brass who receive actual value thereof, are permanently enjoined from initiating patent infringement litigation against, or threatening Sargent or any of its customers, dealers, agents, dealers distributors, or customers of Sargent or users of Sargent's products, with patent infringement litigation based on the design patent in suit, or charging any of them either verbally or in writing with infringement of the patent in suit;
2. Costs, expenses, and reasonable attorneys' fees; and
3. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff requests trial by jury on all issues so triable.

DATED: October 15, 2003

SARGENT MANUFACTURING COMPANY

By: Anthony P. DeLio
Anthony P. DeLio (CT 06035)

By: Peter W. Peterson
Peter W. Peterson (CT00698)

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SARGENT MANUFACTURING COMPANY



US00D354670S

United States Patent [19]

Simon et al.

[11] Patent Number: **Des. 354,670**

[45] Date of Patent: **** Jan. 24, 1995**

- [54] ANTI-VANDAL TRIM FOR DOOR
- [75] Inventors: Ira J. Simon; Martin S. Simon, both of Long Beach, Calif.
- [73] Assignee: Triangle Brass Manufacturing Company, Los Angeles, Calif.
- [**] Term: 14 Years
- [21] Appl. No.: 4,930
- [22] Filed: Feb. 16, 1993
- [52] U.S. Cl. D8/353; D8/314; D8/350
- [58] Field of Search D8/314, 350, 353; 49/503; 70/452, 416, 417, 424; 292/346, 357

4,841,754 6/1989 Jones _____ 70/207
 5,131,189 7/1992 Mascotte _____ 49/460

FOREIGN PATENT DOCUMENTS

921069 4/1947 France .

OTHER PUBLICATIONS

Aug. 10, 1981 drawing (1 page) "Outside Trims".
 1-page entitled "Extruded and Cast Push and Pull Plates". (undated).

Primary Examiner—B. J. Bullock
Attorney, Agent, or Firm—D'Alessandro, Frazzini & Ritchie

[57] **CLAIM**

The ornamental design for an anti-vandal trim for door, as shown and described.

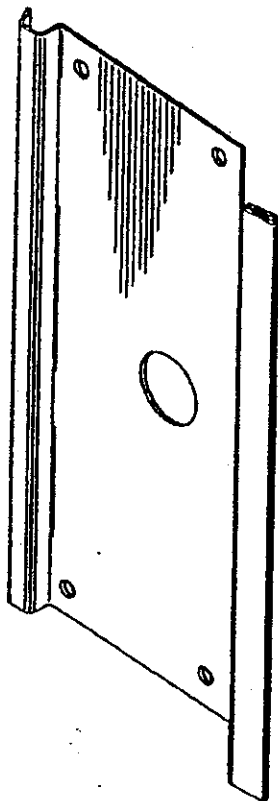
DESCRIPTION

FIG. 1 is a front perspective view of the anti-vandal trim for door showing our new design;
 FIG. 2 is an enlarged front elevational view thereof;
 FIG. 3 is an enlarged top plan view thereof, the undisclosed bottom plan view being a mirror image thereof;
 FIG. 4 is an enlarged rear elevational view thereof;
 FIG. 5 is an enlarged right side elevational view thereof; and,
 FIG. 6 is an enlarged left side elevational view thereof.

References Cited

U.S. PATENT DOCUMENTS

2,489,072	11/1949	Ausubel	70/452
3,391,674	7/1968	Burleigh	16/110 R
3,645,045	2/1972	Gervia et al.	49/504
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4,802,701	2/1989	Mazie	292/346



U.S. Patent

Jan. 24, 1995

Sheet 1 of 2

Des. 354,670

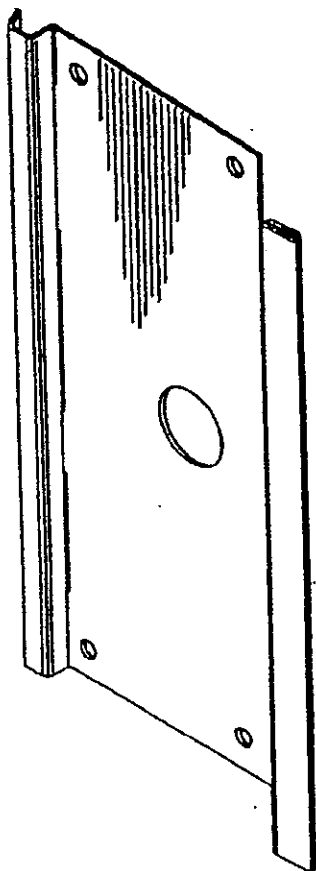


FIG. 1

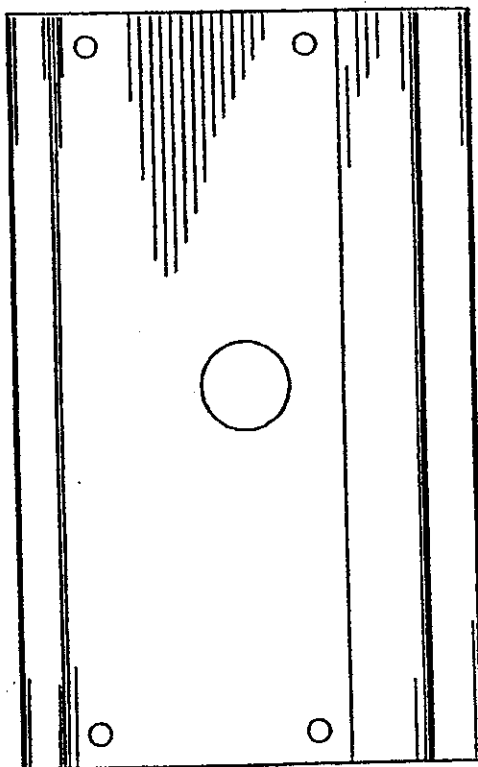


FIG. 2

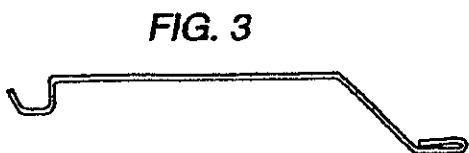


FIG. 3

U.S. Patent

Jan. 24, 1995

Sheet 2 of 2

Des. 354,670

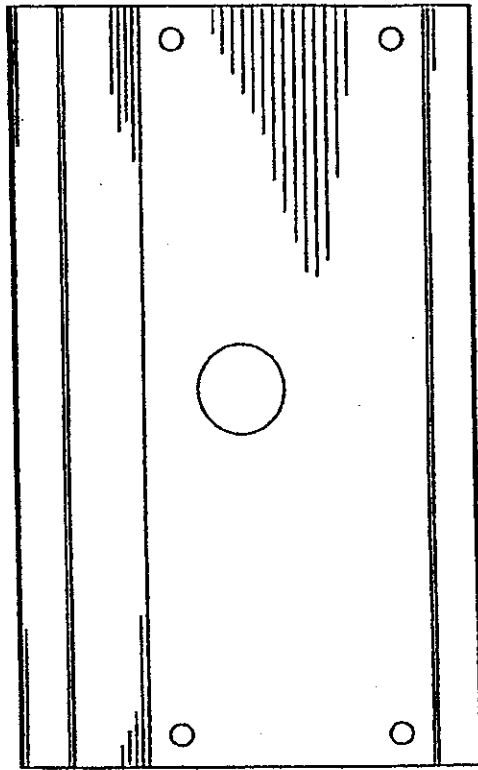


FIG. 4



FIG. 5



FIG. 6

FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP
865 SOUTH FIGUEROA STREET, 29TH FLOOR
LOS ANGELES, CALIFORNIA 90017
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June 18, 2003

Via Federal Express

Thanasis Molokotos, President
Sargent Manufacturing Company
100 Sargent Drive
P.O. Box 9725
New Haven, Connecticut 06536-0915

Re: Triangle Brass Manufacturing Company, Inc., U.S. Patent No. Des. 354,670

Dear Mr. Molokotos:

Please be advised that this office represents Triangle Brass Manufacturing Company, Inc. ("Trimco").

You are hereby placed on notice that Trimco is the owner of U.S. Patent No. Des. 354,670, entitled "Anti-Vandal Trim for Door" ("the '670 patent"), a copy of which patent is enclosed.

Also enclosed are copies of three sheets of Sargent's "General Update Bulletin" (dated 3/21/03) and "Price Pages", offering for sale Sargent's anti-vandal trim for doors. The photographs of the Sargent trims reproduced on the enclosed promotional materials clearly show the Sargent trims to be similar to the anti-vandal trim claimed in the '670 patent, and the manufacture, sale, offering for sale, use or importation of these Sargent trims constitute infringement of the '670 patent in violation of the United States patent laws, 35 U.S.C. §§1 et seq.

Trimco hereby demands that Sargent immediately cease and desist the manufacture, sale, offering for sale, use and/or importation of the infringing Sargent trims. I am enclosing a courtesy copy of a Complaint for Patent Infringement which Trimco has filed against Sargent in United States District Court for the Central District of California in Los Angeles. For your information, Trimco has completed successful settlements of patent infringement lawsuits concerning the '670 patent against Architectural Builders Hardware, Inc., and Rockwood Manufacturing Company.

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Thanasis Molokotos, President
June 18, 2003
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Subject to your informing us in writing no later than July 15, 2003, that Sargent has ceased the manufacture, sale, offering for sale, use and importation of the Sargent anti-vandal trims similar to the anti-vandal door trim claimed in the '670 patent, Trimco would be willing to grant to Sargent a non-exclusive license under the '670 patent, under reasonable terms and conditions. If we do not hear from you by that time, Trimco will have no choice but to take appropriate further action in District Court to protect its patent rights.

Very truly yours,



Richard R. Mainland

RRM/kjs
Enclosure

