

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

BERRY FLOOR USA, INC., a Wisconsin corporation; ALLOC, INC., a Delaware corporation, and BERRY FINANCE, N.V., a Belgian Company

Plaintiffs,

v.

FAUS GROUP, INC., a Georgia Corporation

Defendant

Case No. _____

Jury Demanded

COMPLAINT FOR DECLARATORY JUDGMENT

The Plaintiffs Berry Floor USA, Inc., Alloc, Inc., and Berry Finance, N.V. hereby state as follows by way of their complaint against the Defendant Faus Group, Inc.

JURISDICTION AND VENUE

1. This court has jurisdiction over this matter pursuant to 28 U.S.C. §§1331, 1338(a) and 2201.
2. Venue is proper in this District pursuant to 28 U.S.C. §§1391(c) and (d), and 1400.

THE PARTIES

3. Berry Floor USA, Inc. (“Berry Floor”), is a Wisconsin corporation, with its headquarters in Racine, Wisconsin. Berry Floor sells laminated flooring panels throughout the United States, including in this District.

4. Alloc, Inc. (“Alloc”) is a Delaware corporation, with its headquarters in Racine, Wisconsin. Alloc sells laminated flooring panels throughout the United States including in this District.

5. Berry Finance, N.V. (“Berry Finance”) is a Belgian company, headquartered in Belgium. Berry Floor, Berry Finance, and Alloc are all part of the family of companies owned by Bealieu International Group.

6. Faus Group, Inc.(Faus) is a Georgia corporation with its headquarters in Dalton, Georgia. Faus sells laminated flooring panels throughout the United States, including in the State of Wisconsin, and including in this District.

FACTS

7. Faus claims to be the owner of certain patents and patent applications, including U.S. Pat. Nos. 6,401,415 (“ the ‘415 patent”), 6,668,061 (“the ‘061 patent”), 6,638,387 (“the ‘387 patent”), and U.S. Pat. Application No. 10/758,001, filed January 16, 2004, which is a continuation in part of U.S. Patent Application No. 10/127,602, filed on April 23, 2002, now U.S. Pat. No. 6,688,061 (herein collectively “patents-in-suit”).

8. On or about January 16, 2005, Faus entered into a licensing agreement with Berry Finance, N.V., for license rights under the patents-in-suit. That license is also

applicable to companies affiliated with or commonly owned by Berry Finance, N.V., including Berry Floor and Alloc.

9. Berry Floor and Alloc have, following January 16, 2005 and continuing to the present time, sold products in the United States, including in the State of Wisconsin and including in this District, which are contended by Faus to fall within the scope of the patents-in-suit.

10. On or about November 20, 2007, Faus unilaterally and improperly terminated the above-referenced license agreement.

11. On December 27, 2007, Faus wrote to Berry Finance accusing it of infringing the patents-in-suit by the continued sale of products contended by Faus to fall within the scope of the patents-in-suit, which sales include sales by Berry Floor and by Alloc including sales in the State of Wisconsin and in this District. There exists, therefore an actual controversy pursuant to 28 U.S.C. §2201, between the plaintiffs and the defendant.

COUNT I

(Declaratory Judgment of Patent Non-Infringement or Invalidity)

12. The products sold by Berry Floor and by Alloc do not infringe the patents-in-suit because they do not fall within the scope of the claims thereof or because they are licensed, or, in the alternative, the patents-in-suit are invalid for failure to satisfy the requirements for patentability pursuant to 35 U.S.C. §102, 103, and/or 112.

JURY DEMAND

Plaintiffs request trial by jury.

REQUESTED RELIEF

WHEREFORE, the Plaintiffs respectfully request the court to enter judgment providing as follows:

- a) Betty Floor and Alloc do not infringe the patents-in-suit.
- b) The patents-in-suit are invalid.
- c) The Defendant wrongfully terminated the license dated January 16, 2005,

and such termination is ineffective.



Daniel J. O'Connor
David I. Roche
Baker & McKenzie
Chicago, Illinois 60601
Ph. 312-861-8000
Attorneys for the Plaintiffs