

127

Receipt Number  
548159

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

Exhibits A - F

LIQUI-FORCE SERVICES, )  
 a Canadian company, and )  
 LIQUI-FORCE SERVICES USA, INC )  
 a Michigan Corporation )  
 Plaintiff, )  
 v. )  
 LMK ENTERPRISES )  
 an Illinois Corporation, )  
 Defendant. )

Case: 2:06-cv-14146  
 Assigned To: Tarnow, Arthur J  
 Referral Judge: Capel, Wallace  
 Filed: 09-20-2006 At 03:01 PM  
 CMP LIQUI-FORCE SERVICES, ET AL V.  
 LMK ENTERPRISES (TAM)

DEMAND FOR JURY TRIAL

**COMPLAINT FOR DECLARATORY JUDGMENT AND COMPLAINT**

Liqui-Force Services and Liqui-Force Services USA, Inc., (hereinafter "Liqui-Force")  
hercby states and alleges as follows:

**THE PARTIES**

1. Plaintiff Liqui-Force Services is a corporation organized under the laws of the province of Ontario, Canada and has a principle place of business at 2015 Sprinks Drive RR2 Kingsville, Ontario N9Y 2E5.

2. Plaintiff Liqui-Force Services USA, Inc. is a corporation organized under the laws of Michigan and has a principle place of business at 28529 Goddard Road, Ste 106, Romulus, Michigan 48174.

3. Upon information and believe LMK Enterprises (Hereinafter "LMK") is a corporation incorporated under the laws of the State of Illinois with its principal place of business at 1779 Chessie Lane, Ottawa, Illinois 61350.

#### JURISDICTION AND VENUE

4. This is an action for declaratory relief pursuant to the laws set forth in Title 28 of the United States Code, and particularly, 28 U.S.C. §§ 2201 and 2202. Jurisdiction in this court is based on 28 U.S.C. §§1331 and 1338(a). This Court has personal jurisdiction over LMK in view of its contacts with this forum. This Court has supplemental jurisdiction of the state and common law claims under 28 U.S.C. § 1367.

5. Defendant LMK has intentionally directed its actions to this district by undertaking the conduct alleged below, and know that such actions would cause the brunt of the injury to be suffered in this district.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400 because acts or omissions giving rise to the claim occurred in this district, and a substantial part of property subject of this action is situated in this district.

CAUSE OF ACTION FOR DECLARATORY JUDGMENT

COUNT I: NON-INFRINGEMENT OF U.S. PATENT 6,039,079

7. Liqui-Force seeks a declaratory judgment declaring that United States Patent No.: 6,039,079, (hereinafter the '079 patent) entitled "Apparatus and Method for Repairing the Junction of a Sewer Main Line and Lateral Pipe" was not obtained in a manner consistent with the provisions of Title 35, United States Code and are thus invalid and/or unenforceable. More specifically, the '079 patent is invalid and/or unenforceable for failure to comply with one or more of the conditions for patentability set forth in 35 U.S.C. §§ 101,102,103 and 112. A copy of the '079 patent is attached as Exhibit A.

8. Liqui-Force seeks a declaratory judgment declaring that Liqui-Force does not currently make, use or sell in the United States or elsewhere any product that infringes, or use of that infringes the '079 patent, and Liqui-Force has not infringed or induced any other to infringe the '079 patent.

9. Any products that Liqui-Force installed that may be covered by the '079 patents were purchased from LMK. Liqui-Force has never made or used any product that falls within a valid and enforceable claim of the '079 patent that was not directly purchased from LMK.

10. LMK has brought suit against Liqui-Force in United States District Court, Northern District of Illinois, Eastern division, a copy of which is attached hereto as Exhibit B. The LMK suit alleges infringement of the '079 patent. Therefore, an actual controversy exists

between Liqui-Force and LMK. Liqui-Force will file a motion to dismiss that action because the Court in Illinois does not have jurisdiction over Liqui-Force and venue is improper in Illinois.

COUNT II: NON-BREACH OF NOVEMBER 27, 1998 AND MARCH 9, 1998

AGREEMENTS BETWEEN LIQUI-FORCE AND LMK

11. Plaintiff Liqui-Force incorporates by reference the allegations of paragraphs 1-6 above.

12. Plaintiff Liqui-Force Services and Defendant LMK entered into a first agreement on March 9, 1998, (Attached as exhibit C). Plaintiff Liqui-Force Services USA., Inc. and LMK entered into a second agreement on November 27, 1998 (Attached as exhibit D) (hereinafter "the agreements"). Under the agreements Liqui-Force agreed to purchase sewer lining products and equipment from LMK.

13. The agreements include the following definitions:

Licensed Products shall mean devices or equipment coming within one or more claims of the Patent Rights or utilizing Licensors Proprietary Technology.

Licensed Services shall mean the method coming within one or more claims of the Patent Rights or utilizing Licensors Proprietary Technology.

Proprietary Technology shall mean confidential information and know-how disclosed to Licensee by Licensor during the term of this Agreement and which is not known to the public, disclosed in an issued patent, or otherwise in the public domain.

**No Royalties Due**

14. Plaintiff Liqui-Force seeks a declaratory judgment declaring that Liqui-Force does not owe LMK any royalties under the agreements.

15. The agreements includes a clause providing for the payment of a royalty of 10% of the Licensee's sales proceeds for the Licensed Products and Services provided to customers with equipment, products or services that were not purchased from Licensor LMK.

16. Liqui-Force has never made any devices or products that fall within LMK's Licensed Products as defined in the agreement. Liqui-Force has always purchased equipment and the Licensed Products from LMK. Therefore no royalties as provided by the agreements are due to LMK.

**LMK has No Ownership Interest**

17. Liqui-Force seeks a declaratory judgment declaring that Liqui-Force is not required to convey ownership of U.S. Patents 6,484,757; 6,695,013; and 6,827,526 to LMK.

18. The agreements include a grant back clause that states:

Any inventions for improvements to the Licensed Products and Services, whether patentable or not, shall be owned by Licensor regardless of whether or not developed or invented by Licensor or Licensee or both.

19. As reproduced above, the agreements define the Licensed Products as devices or equipment coming within one or more claims of the Patent Rights or utilizing Licensors Proprietary Technology.

20. The patents owned by Liqui-Force do not fall within any of the claims of any of LMK patents and do not use any LMK proprietary technology.

21. Further, the agreements are subject to rescission for failing to comply with Michigan Franchise Investment Law as explained below in Counts III and IV. Therefore, Liqui-Force has no obligation convey the Liqui-Force patents, and/or other intellectual property to LMK.

#### **No Breach of Territorial Restriction**

22. Liqui-Force seeks a declaratory judgment declaring that no breach of the agreements occurred by way of work conducted by Liqui-Force outside of the licensed territory.

23. Liqui-Force and LMK have operated under separate agreements, and under the authorization of LMK where Liqui-Force made payments in the name of and directly to Mr. Larry M. Kiest, who is a principle of LMK, for authorization to perform work using LMK Licensed Products outside of the Licensed Territory.

24. Liqui-Force has not used LMK Licensed Products outside the licensed territory without authorization from Mr. Larry M. Kiest and/or LMK.

**Non-Compete covenant is void and unenforceable**

25. Liqui-Force seeks a declaratory judgment declaring that a non-compete covenant after termination of the agreements is invalid and/or unenforceable.

26. The covenant not to compete after termination of the agreements is unenforceable as it is not necessary to protect LMK's business interests, is not reasonable in scope and merely is in place to prevent legitimate competition.

27. Further, the agreements are void, unenforceable and/or subject to rescission for failing to comply with Michigan Franchise Investment Law as explained below in Counts III and IV.

28. LMK has brought suit against Liqui-Force in United States District Court, Northern District of Illinois, Eastern division, a copy of which is attached hereto as Exhibit B. The LMK suit alleges infringement of the '079 patent. Therefore, an actual controversy exists between Liqui-Force and LMK. Liqui-Force will file a motion to dismiss that action because the Court in Illinois does not have personal jurisdiction over Liqui-Force and venue is improper in Illinois.

COUNT III: VIOLATION OF MICHIGAN FRANCHISE INVESTMENT LAW

(MCL §§ 445.1501)

(March 9, 1998 Agreement, Exhibit C)

29. Plaintiff Liqui-Force incorporates by reference the allegations from paragraphs 1-6 above.

30. On March 9, 1998 defendant LMK and Liqui-Force services entered into a franchise agreement (Exhibit C) as defined by Michigan statute MCL § 445.1502. Although the agreement was presented as a patent license agreement, the terms of the agreement meet the statutory requirements of a franchise agreement under Michigan Franchise Investment Law MCL §445.1502. The Michigan statute applies to agreements, regardless of the intent of the parties, that grant the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor, that is substantially associated with the franchisors trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor or its affiliate, and payment of a fee. These elements are present in the March 9, 1998 agreement as described in part below.

A. LMK granted Liqui-Force the right to offer, sell and distribute LMK sewer lining products and services.

B. LMK proscribed in substantial part a set of standards for selling and installing sewer lining products that included standard operating procedures, training for installing LMK's sewer lining products, requirements that products be purchased from LMK, along with limitations on the territory within which Liqui-Force could sell and install LMK's products.



C. LMK required Liqui-Force to mark all Licensed Products and literature with an appropriate patent notice and was granted the right to use LMK's trademark "Performance Liner" in connection with sewer lining installation services.

D. Liqui-Force paid a fee as defined by MCL §445.1503 (1) to LMK for the franchise.

31. LMK failed to register to sell franchises in the State of Michigan in violation of MCL §§ 445.1507a. (Letter from Consumer Protection Division, Franchise Unit of the Department of Michigan Attorney Generals Office, Exhibit E)

32. LMK failed to pay fees required under Michigan statute in violation of MCL §§ 445.1540.

33. LMK sold this franchise to Liqui-Force without providing a copy of the disclosure statement required as specified by MCL §445.1508(2) in violation of MCL § 445.1508(1). As a result of the LMK's failure to provide the required disclosures to Liqui-Force, Liqui-Force has suffered damages in amounts specified in paragraph 37 below.

34. The disclosure statement under MCL § 445.1508(2) requires notice that certain unfair provision that are sometimes in a franchise document are void and unenforceable. As Liqui-Force was not provided the required disclosures, Liqui-Force was not informed of these void and unenforceable provisions. The franchise agreement includes a choice of forum clause

requiring that litigation be conducted in the state of Illinois. This clause is void and unenforceable under MCL§445.1527(f).

35. LMK made representations in connection with the sale of the franchise that were untrue as to the capability of purchased sewer lining products in violation of MCL 445.1505 of the Michigan Franchise Investment Act causing damage to Liqui-Force as described and specified in paragraph 38 below.

36. LMK made representations to Liqui-Force as to its experience in installing sewer lining products that were untrue, and/or omitted a material fact necessary in order to make the statements made not misleading in light of the circumstances in violation of MCL § 445.1505.

37. LMK breached expressed terms of the Franchise agreement by terminating the agreement without providing the required thirty day (30) written notice. (Exhibit F).

38. Liqui-Force suffered damages as a result of product failures directly attributable to representations made by LMK in amount in excess of \$1,000,000 U.S. Further, LMK product failures have caused damages in the form of lost revenue in excess of \$5,000,000 U.S. and caused damage to Liqui-Force's reputation and ability to secure future work in an amount not yet determined.

COUNT IV: VIOLATION OF MICHIGAN FRANCHISE INVESTMENT LAW

(MCL §§ 445.1501)

(November 27, 1998 Agreement, Exhibit D)

39. Plaintiff Liqui-Force incorporates by reference the allegations from paragraphs 1-6 above.

40. On November 27, 1998 defendant LMK and Liqui-Force services entered into a franchise agreement (Exhibit D) as defined by Michigan statute MCL § 445.1502. Although the agreement was presented as a patent license agreement, the terms of the agreement meet the statutory requirements of a franchise agreement under Michigan Franchise Investment Law MCL §445.1502. The Michigan statute applies to this agreement for the same reasons discussed in paragraph 30 above with the only difference being that the November 27, 1998 franchise agreement granted the right to use LMK's trademark "T-Liner" in connection with sewer lining installation services instead of the "Performance Liner" mark.

41. LMK failed to register to sell franchises in the State of Michigan in violation of MCL §§ 445.1507a. (Exhibit E)

42. LMK failed to pay fees required under Michigan statute in violation of MCL §§ 445.1540.

43. LMK sold this franchise to Liqui-Force without providing a copy of the disclosure statement required as specified by MCL §445.1508(2) in violation of MCL§ 445.1508(1). As a result of LMK's failure to provide the required disclosures to Liqui-Force, Liqui-Force has suffered damages in amount described and specified in paragraph 48 below.

44. As no disclosure statement as specified by MCL§ 445.1508(2) was provided, Liqui-Force was not informed of certain provisions as specified under the provisions of MCL § 445.1508 within the franchise agreement that are void and unenforceable under Michigan law when included in a franchise agreement. The franchise agreement includes a choice of forum provision requiring that litigation be conducted in the state of Illinois. This clause is void and unenforceable under MCL§445.1527(f) in a franchise agreement.

45. LMK made representations in connection with the sale of the franchise that were untrue as to the capability of purchased sewer lining products in violation of MCL 445.1505 of the Michigan Franchise Investment Act causing damage to Liqui-Force in an amount described and specified in paragraph 48 below.

46. LMK made representations to Liqui-Force as to its experience in installing sewer lining products that were untrue, and/or omitted a material fact necessary in order to make the statements made not misleading in light of the circumstances in violation of MCL § 445.1505.

47. LMK breached expressed terms of the Franchise agreement by terminating the agreement without providing the required thirty day (30) written notice. (Exhibit F).

48. Liqui-Force suffered damages as a result of LMK product failures in amount in excess of \$1,000,000 U.S. Further, LMK product failures have caused damages in the form of lost revenue in excess of \$5,000,000 U.S. and caused damage to Liqui-Force's reputation and ability to secure future work in an amount not yet determined.

COUNT V: BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

MCL § 440.2314

49. Plaintiff Liqui-Force incorporates by reference the allegations from paragraphs 1-6 above.

50. LMK is a supplier of sewer lining products and equipment.

51. Liqui-Force purchased equipment and sewer lining products for installation according to the specifications provided by LMK. LMK made certain representations as to product capability and product application for specific sewer lining applications.

52. Liqui-Force relied on LMK's representations as to product capability and product application for specific sewer lining applications.

53. LMK's equipment and sewer lining products did not perform as represented to Liqui-Force.

54. LMK knew or should have known that failure of the sewer lining product to Liqui-Force would cause damage to Liqui-Force.

55. Liqui-Force suffered damages as a result of reliance on LMK's products and representations in an amount in excess of \$1,000,000 U.S. Further, Liqui-Force has suffered additional damages to its good will and reputation as a result of reliance on LMK's representations that have impacted Liqui-Force's ability to secure future work in an amount in excess of \$5,000,000 U.S.

COUNT VI: BREACH OF IMPLIED WARRANTY; FITNESS FOR PARTICULAR

PURPOSE

(MCL § 440.2315)

56. Plaintiff Liqui-Force incorporates by reference the allegations from paragraphs 1-6 above.

57. LMK is a supplier of sewer lining products and equipment.

58. Liqui-Force purchased equipment and sewer lining products for installation according to the specifications provided by LMK. LMK made certain representations as to product capability and product application for specific sewer lining applications.

59. LMK knew the specific use and application for the sewer lining products purchased by Liqui-Force, and Liqui-Force relied on LMK to provide the proper sewer lining product for the specific application.

60. LMK's equipment and sewer lining products as specified and provided by LMK were not fit for the intended purpose and did not perform as represented by LMK to Liqui-Force.

61. Liqui-Force suffered damages as a result of reliance on LMK's products and representations in an amount in excess of \$1,000,000 U.S. Further, Liqui-Force has suffered additional damages to its good will and reputation as a result of reliance on LMK's representations that have impacted Liqui-Force's ability to secure future work in an amount not yet determined but in excess of \$5,000,000 U.S.

62. Damages suffered by Liqui-Force as a result of the unfit sewer lining materials purchased from LMK were foreseeable by LMK at the time of sale.

RELIEF REQUESTED

WHEREFORE, LIQUI-FORCE requests the following relief:

- A. Enter a judgment declaring that the '079 patent is invalid and unenforceable;
- B. Enter a judgment declaring that the '079 patent is not infringed by any products currently or previously made, used or sold by LIQUI-FORCE;
- C. Enter a judgment granting rescission of the Franchise agreements between LIQUI-FORCE and LMK as provided in MCL§445.1531 plus interest including an adjustment as at the time of the injury to LIQUI-FORCE the U.S. dollar was worth much more relative to the Canadian dollar and therefore LIQUI-FORCE is also entitled to an adjustment to compensate for this change in exchange rates;
- D. Enter a judgment awarding all damages for violations of the Michigan Franchise Investment Act to which LIQUI-FORCE is legally entitled, in an amount determined by this Court, adequate to compensate LIQUI-FORCE including interest and adjustments to compensate for the change in exchange rates between Canadian and U.S. currency at the time of the injury;
- E. Enter a judgment that LIQUI-FORCE does not owe royalties of any kind to LMK;
- F. Enter a judgment that LMK is not entitled to any right or interest in U.S. Patents 6,484,757; 6,695,013; and 6,827,526;
- G. Enter a judgment that the post termination clauses within the Franchise agreements are unenforceable;
- H. Enter a judgment that LIQUI-FORCE did not breach terms of the agreements by conducting work outside of the territory under agreement with LMK;



I. Enter a judgment awarding damages caused by LMK's breach of warranty of merchantability to which LIQUI-FORCE is legally entitled, in an amount determined by this Court adequate to compensate LIQUI-FORCE;

J. Enter a judgment awarding damages caused by LMK's breach of implied warranty; fitness for particular purpose to which LIQUI-FORCE is legally entitled, in an amount determined at trial to compensate LIQUI-FORCE, including interest and adjustment to compensate for changes in the exchange rate between Canadian and U.S. currency;

K. Enter a judgment awarding costs and attorneys' fees plus interest and adjustment to compensate for changes in the exchange rate between Canadian and US currency;

L. Enter a judgment awarding such other and further relief as the Court may deem just and equitable.

DEMAND FOR JURY TRIAL

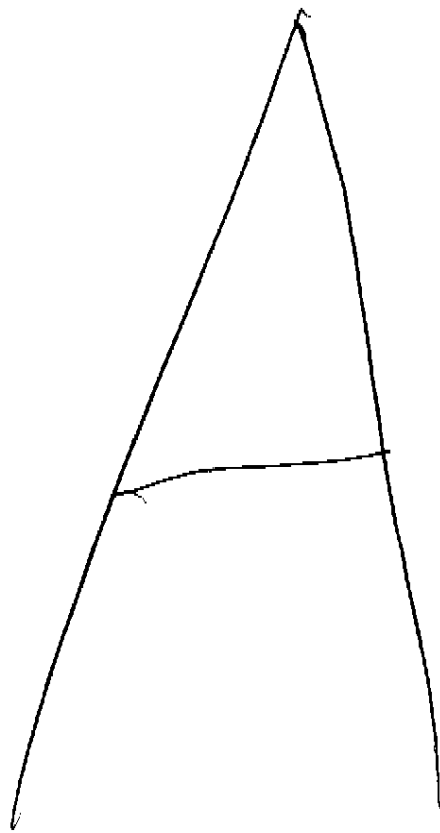
Liqui-Force hereby requests a jury trial of all issues triable to a jury.

CARLSON, GASKEY & OLDS, P.C.

By: 

Theodore W. Olds (P42004)  
John M. Siragusa (P62573)  
400 W. Maple, Suite 350  
Birmingham, Michigan 48009  
Telephone: (248) 988-8360  
Facsimile: (248) 988-8363  
jsiragusa@cgolaw.com

Dated: September 20, 2006





US006039079A

**United States Patent** [19]

[11] **Patent Number:** **6,039,079**

**Kiest, Jr.**

[45] **Date of Patent:** **Mar. 21, 2000**

[54] **APPARATUS AND METHOD FOR REPAIRING THE JUNCTION OF A SEWER MAIN LINE AND LATERAL PIPE**

*Primary Examiner*—Patrick Brinson  
*Attorney, Agent, or Firm*—Zarley, McKee, Thomte, Voorhees & Sease

[75] **Inventor:** Larry W. Kiest, Jr., Ottawa, Ill.

[57] **ABSTRACT**

[73] **Assignee:** IMK Enterprises, Inc., Ottawa, Ill.

An apparatus and method for repairing the junction of a sewer main line and a lateral pipe includes a generally T-shaped flexible translucent urethane inflatable bladder having a main line portion and a lateral portion. The lateral portion is inverted through the main line portion and extends out one end thereof. A liner assembly of resin absorbent material is formed, with a tubular lateral liner connected to a flat sheet main liner, at a central opening in the flat sheet liner. Each liner is coated with a polymer coating, for an airtight seal, and a polymer tape is welded to the polymer coating on the lateral liner and the junction of the lateral liner and flat sheet, to form airtight seals. The liner assembly is then installed in the bladder assembly, by threading the lateral liner into the lateral bladder until the flat sheet contacts the main line bladder. The lateral liner is then impregnated with uncured resin and the liner/bladder assembly is installed on launcher. The flat sheet liner is also impregnated with uncured resin, and the launcher is then inserted in a sewer main line and aligned with a lateral pipe to be repaired. The lateral bladder is inflated to revert the bladder upwardly into the lateral pipe forcing the liner assembly into contact with the lateral pipe, the main line sewer pipe, and the junction thereof. Once the resin is cured, the bladder assembly and launcher are removed from the sewer pipe.

[21] **App. No.:** 09/118,048

[22] **Filed:** Jul. 17, 1998

[51] **Int. Cl. 7** ..... F16L 55/16

[52] **U.S. Cl.** ..... 138/98; 138/97; 264/269; 264/516; 156/287

[58] **Field of Search** ..... 138/98, 97; 264/269, 264/267, 516; 156/94, 287, 294, 574; 405/150.1

[56] **References Cited**

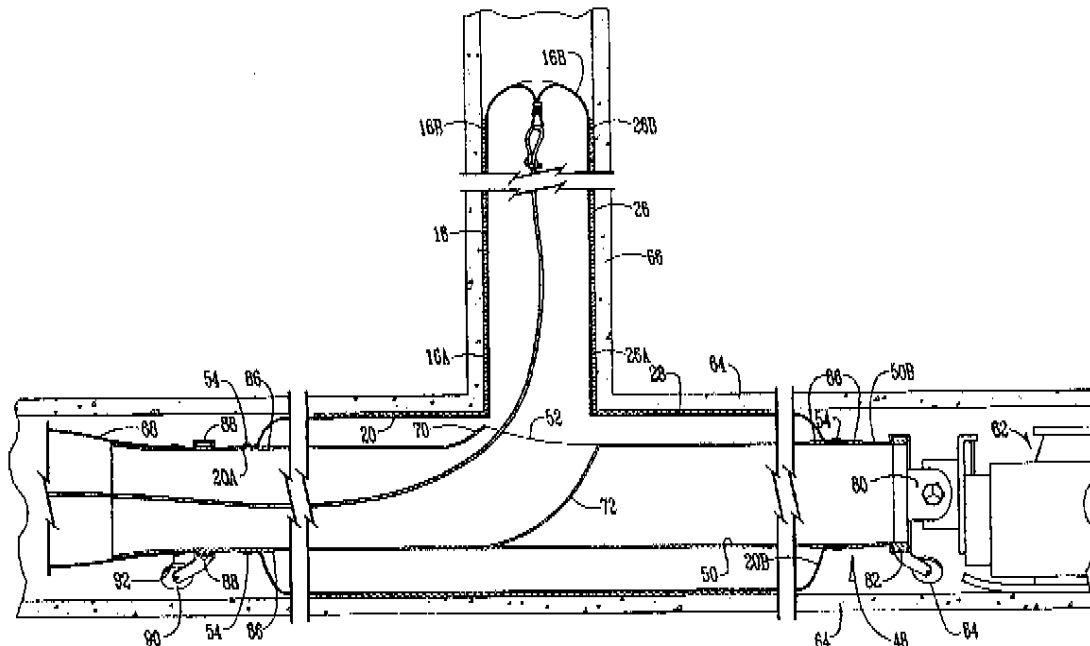
**U.S. PATENT DOCUMENTS**

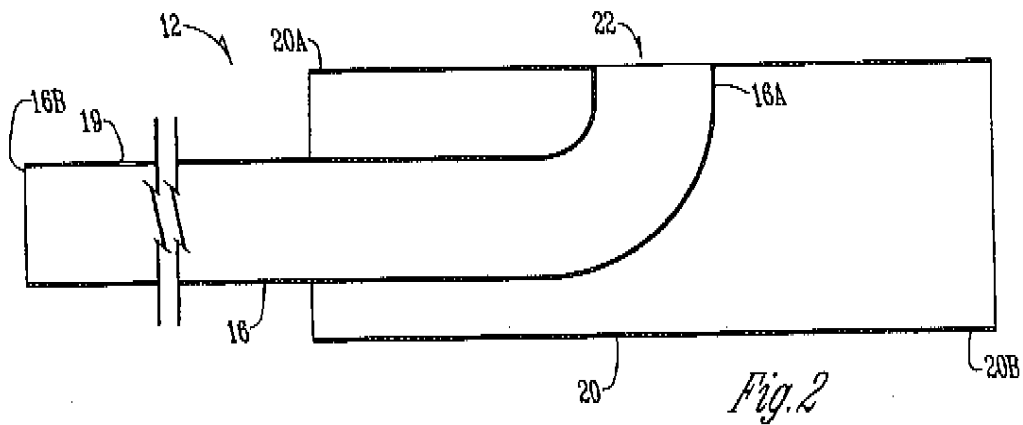
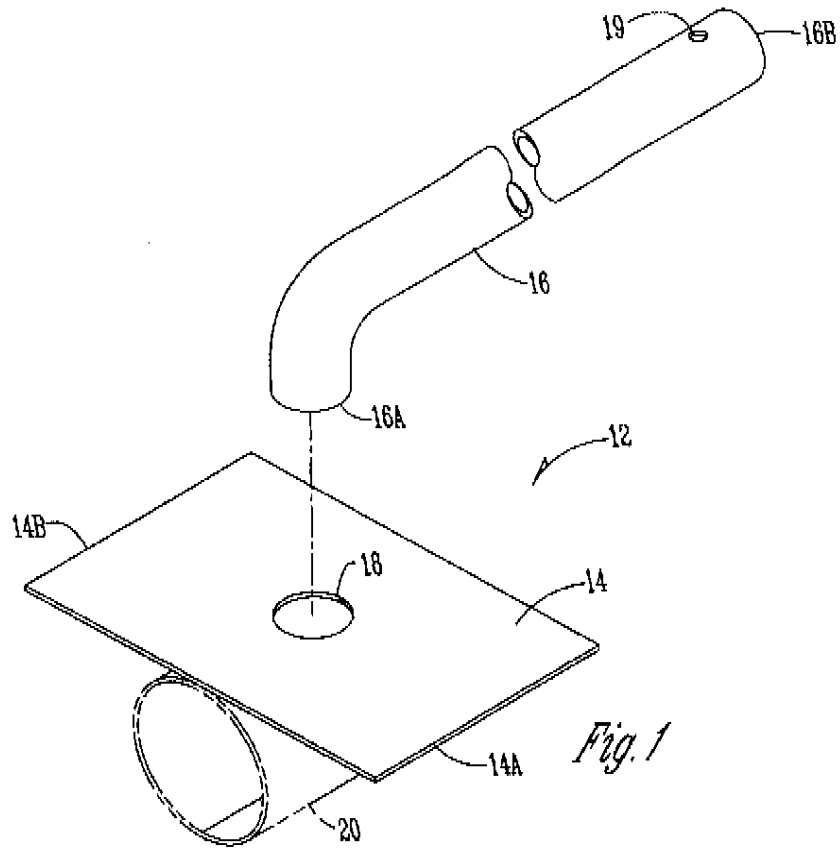
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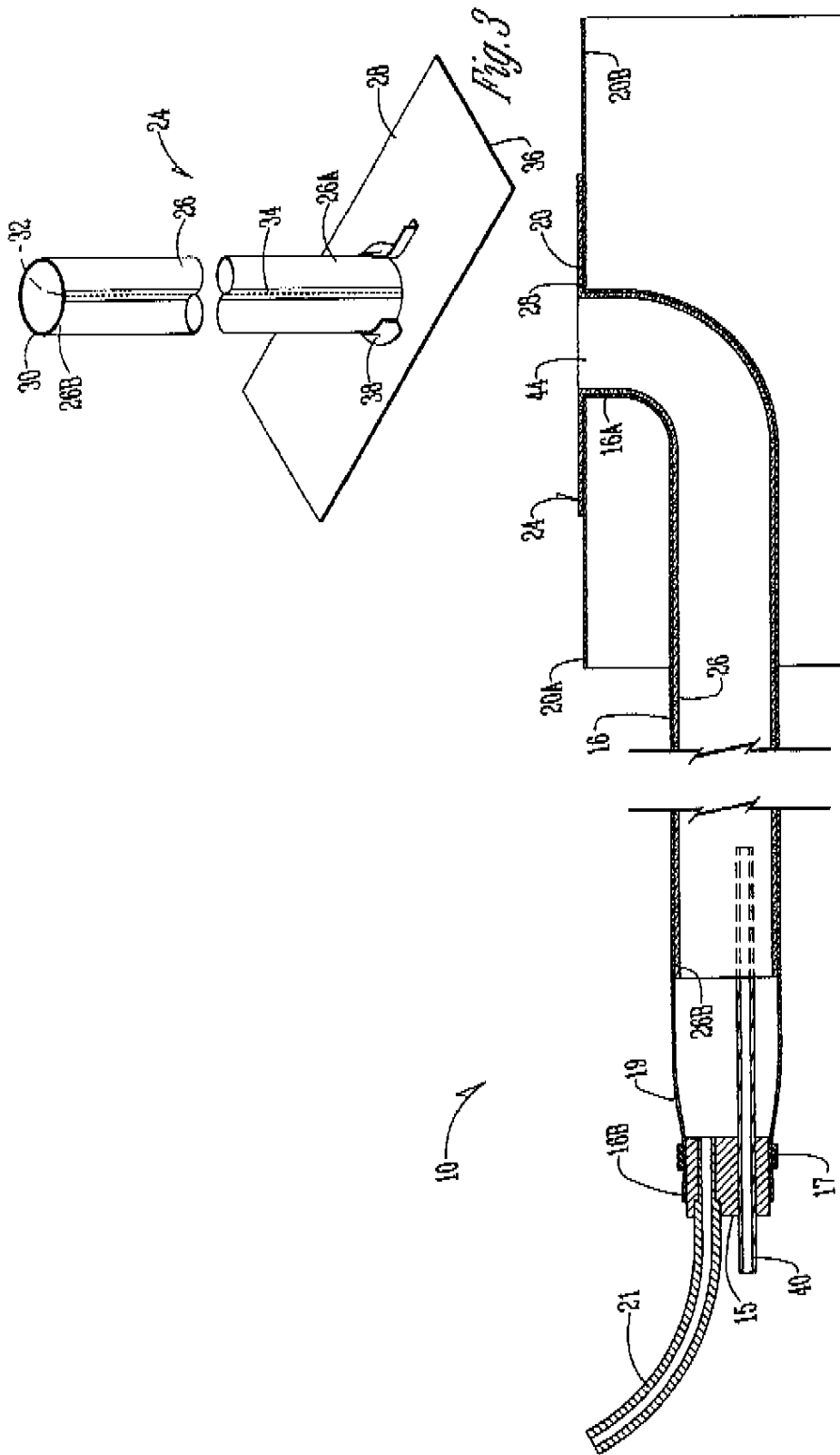
**FOREIGN PATENT DOCUMENTS**

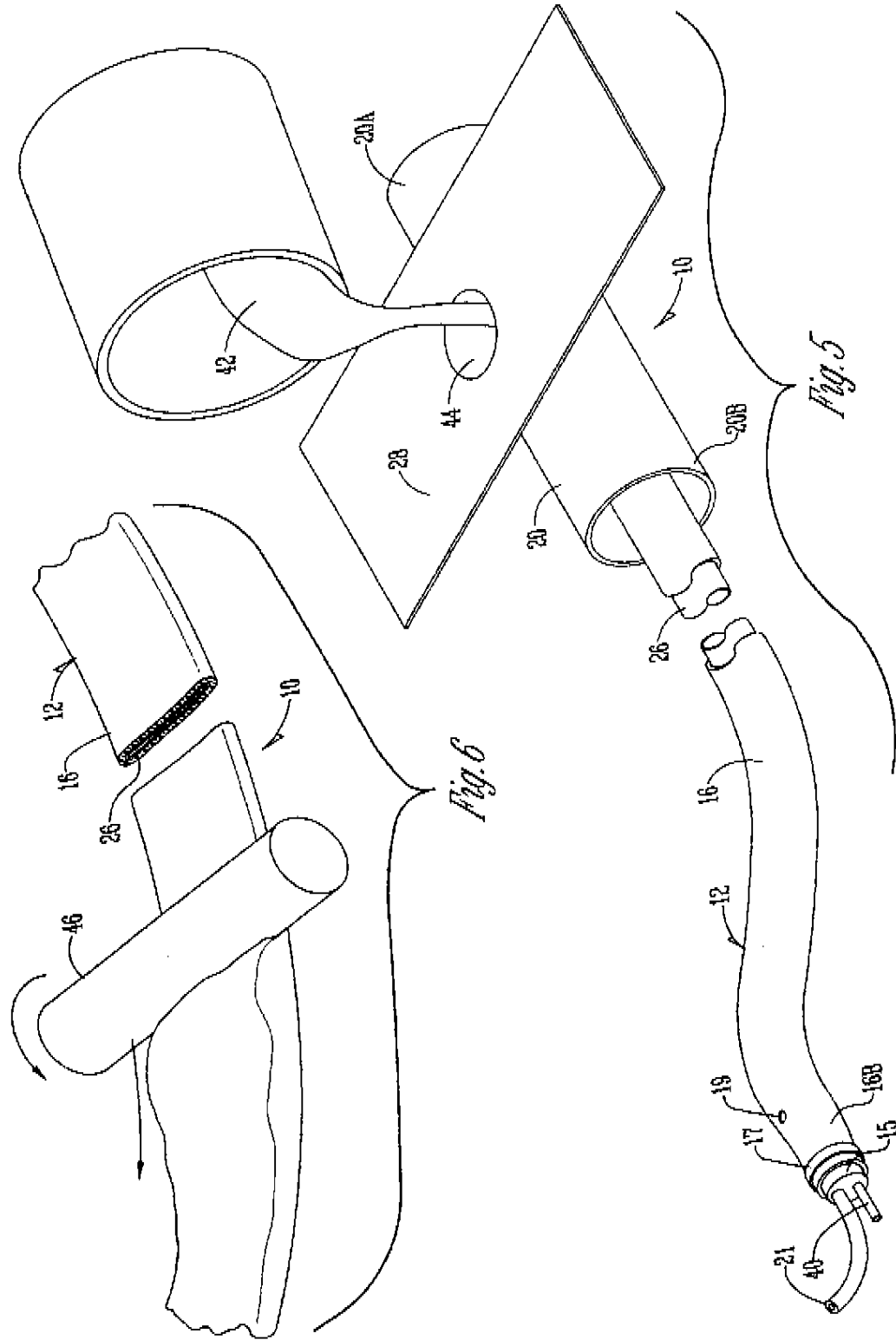
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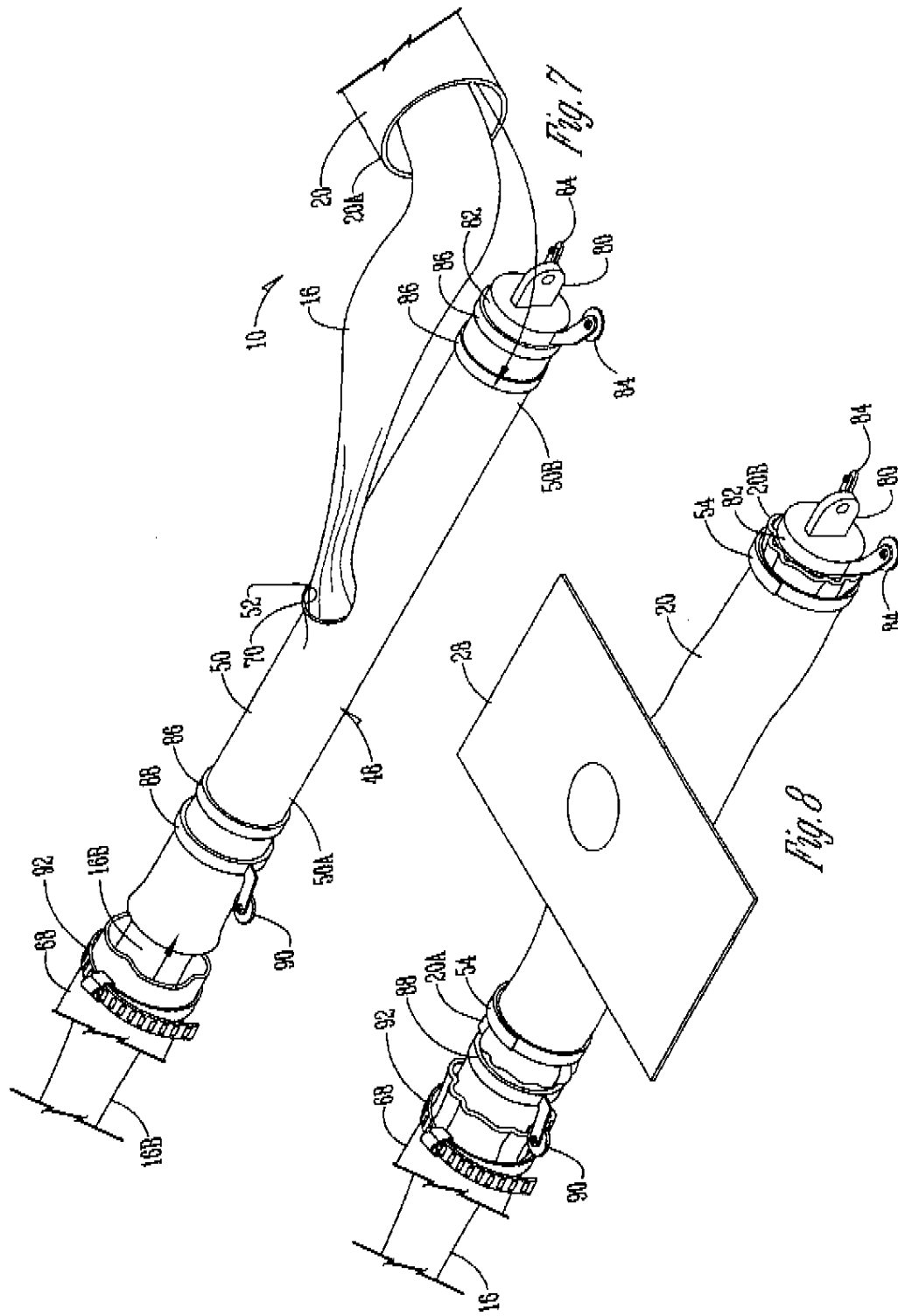
**13 Claims, 8 Drawing Sheets**

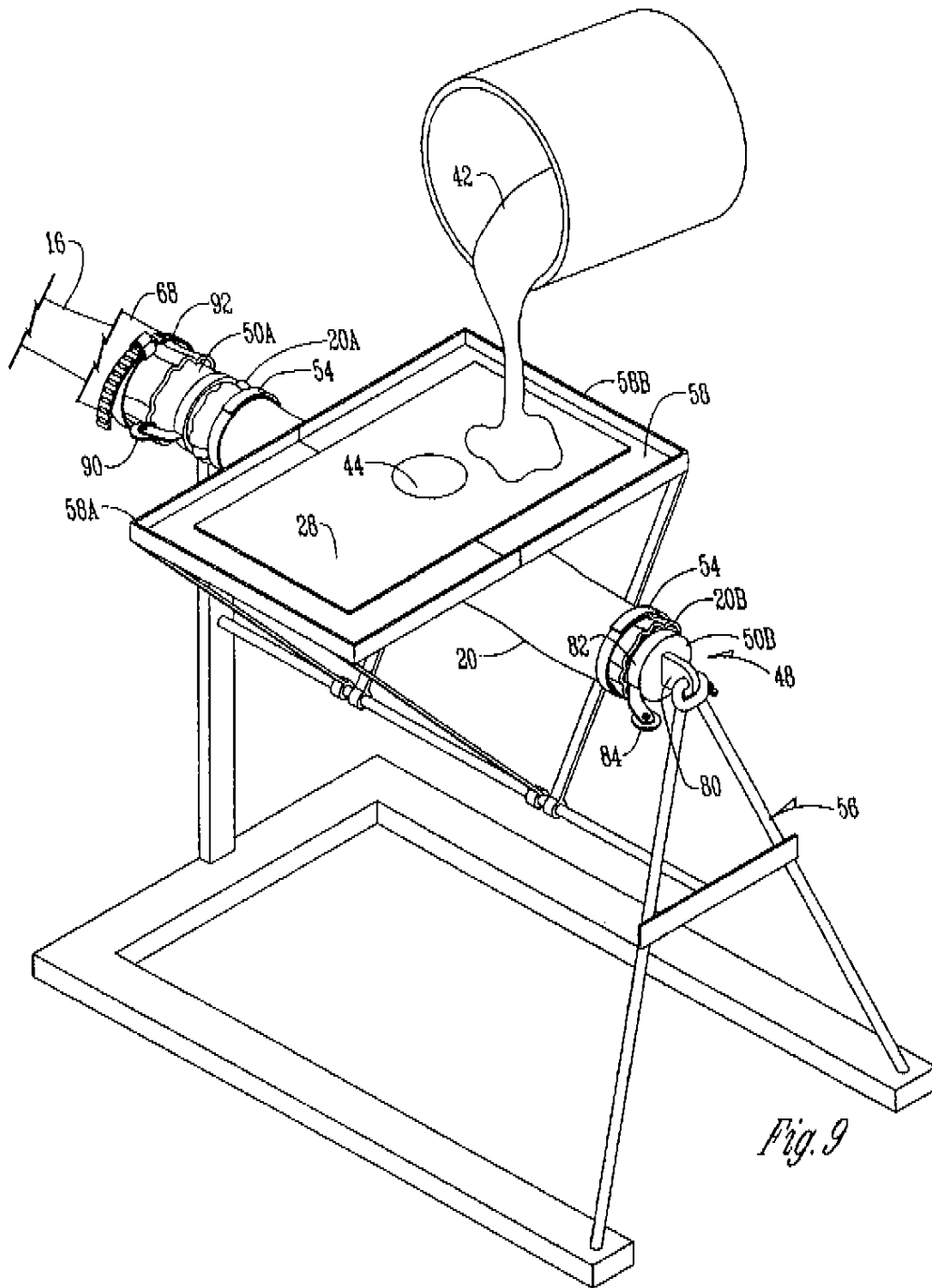




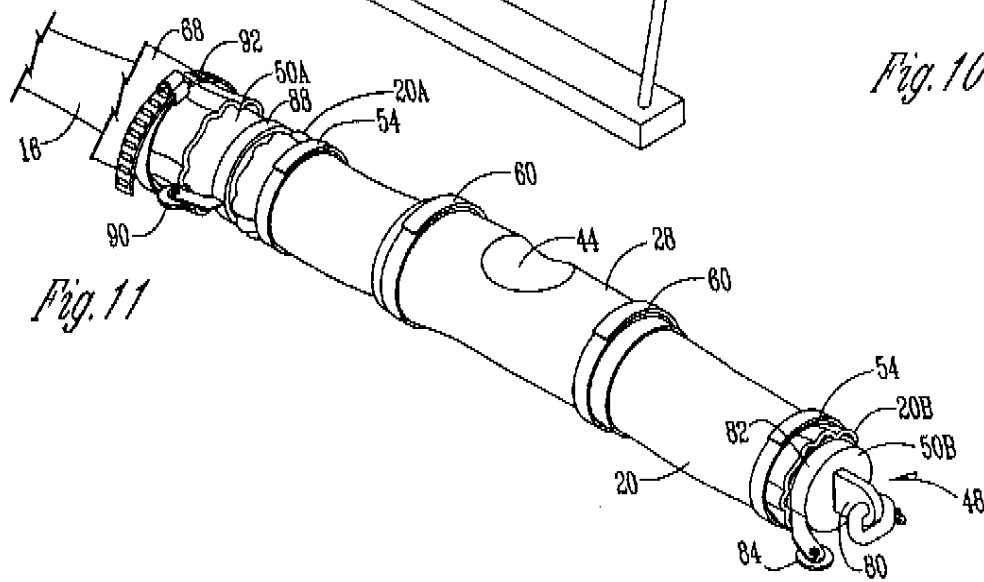
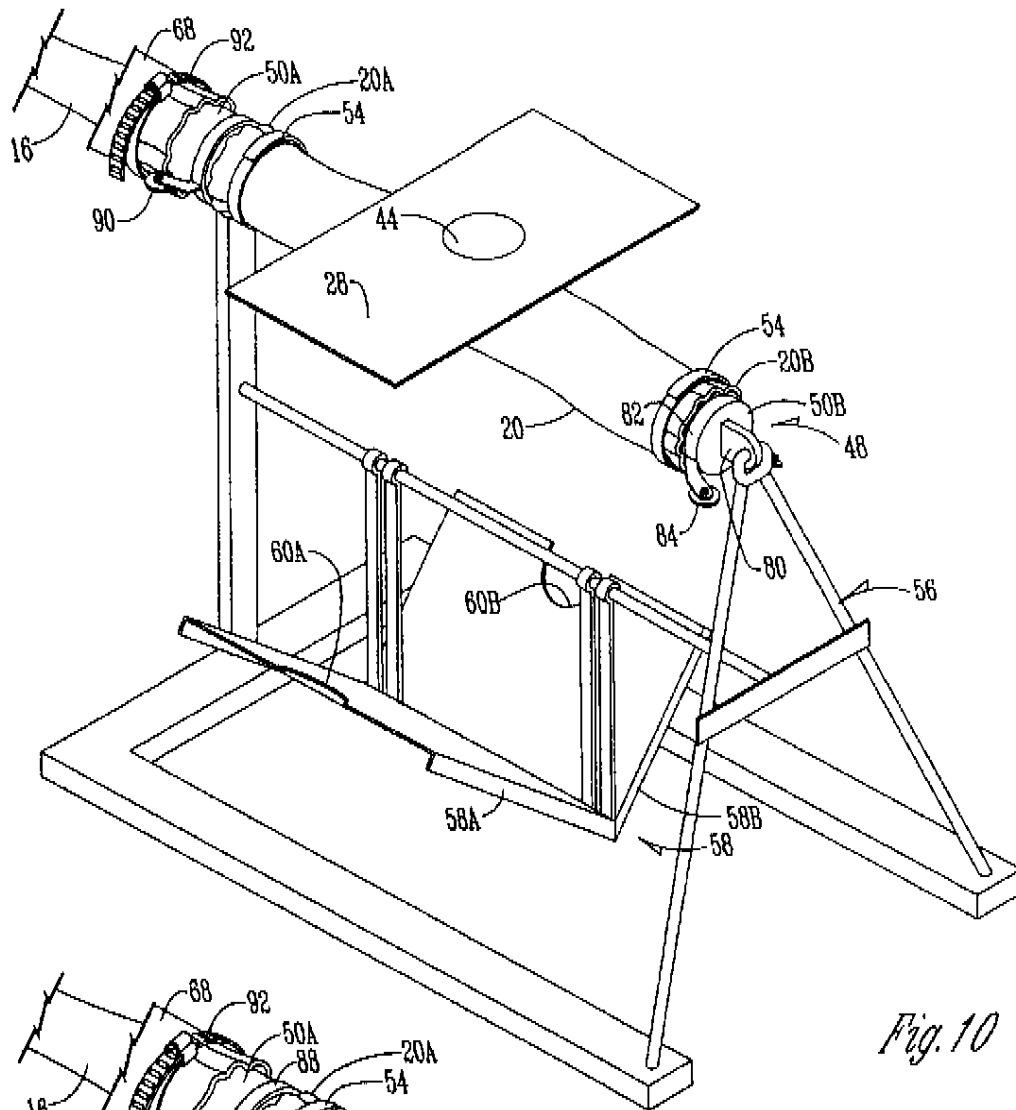


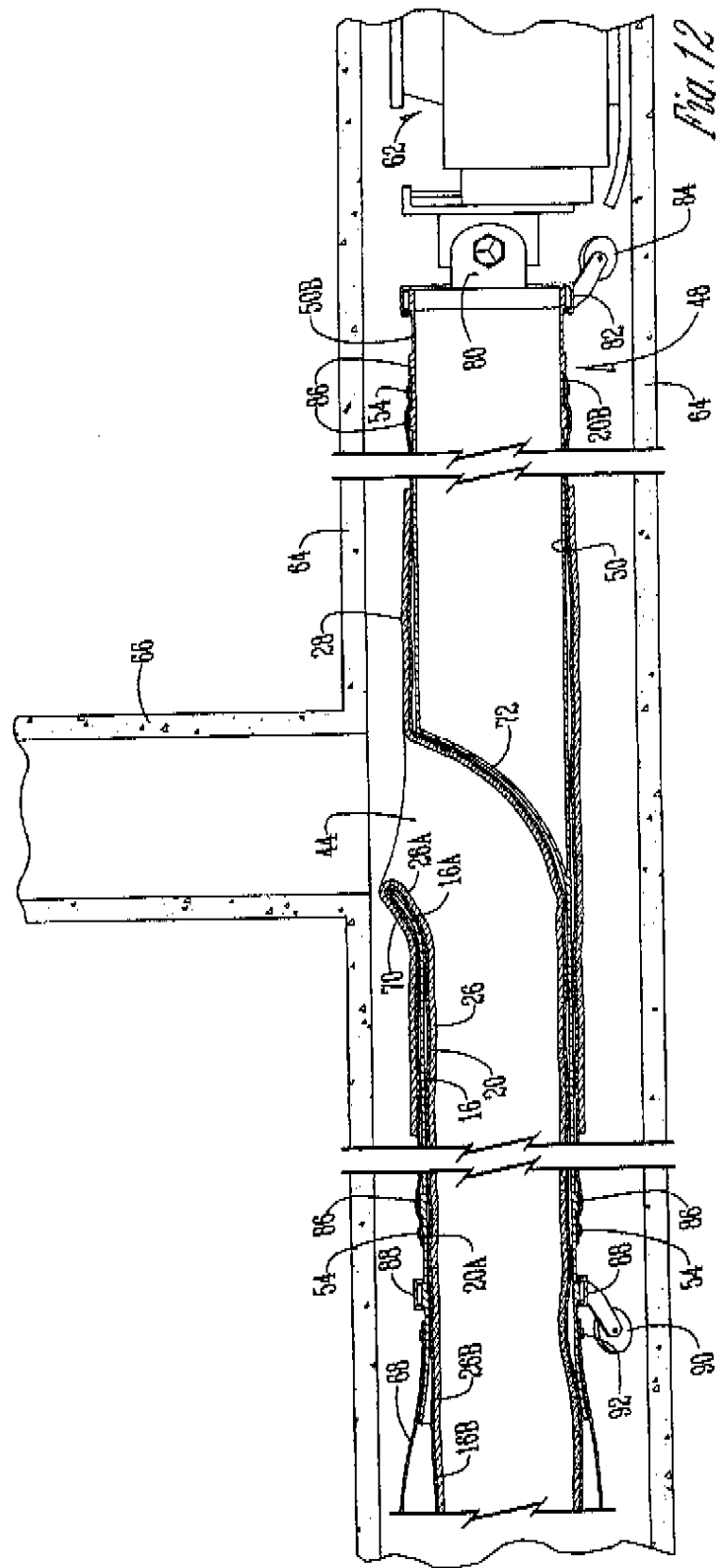


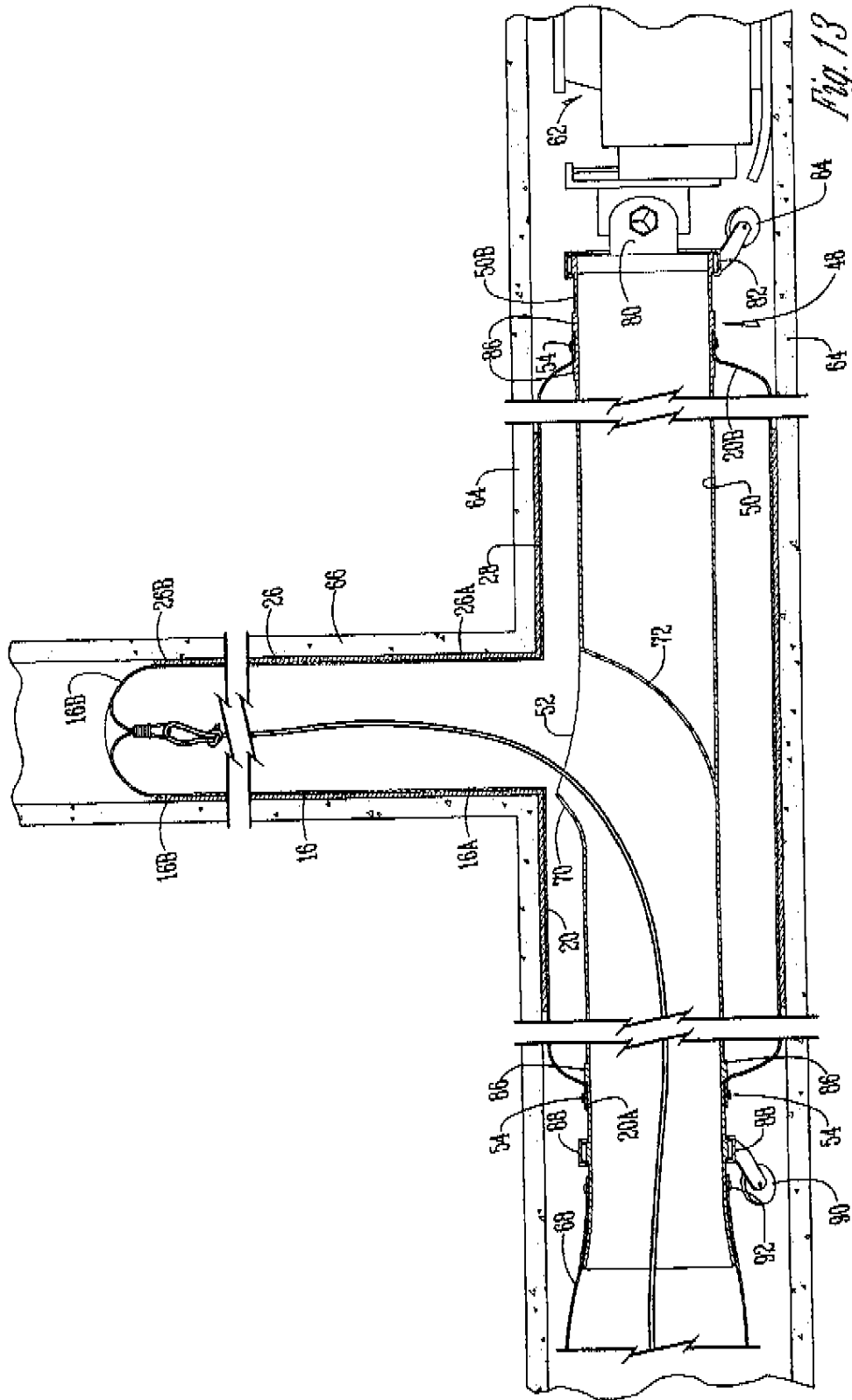












6,039,079

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## APPARATUS AND METHOD FOR REPAIRING THE JUNCTION OF A SEWER MAIN LINE AND LATERAL PIPE

### TECHNICAL FIELD

The present invention relates generally to sewer pipe line repair, and more particularly to an improved method and apparatus for installing a resin impregnated liner at the juncture of a sewer main line and lateral pipe, and extending down the lateral pipe.

### BACKGROUND OF THE INVENTION

One method of repairing damaged sewer pipe is to excavate the area surrounding the sewer pipe and replace the broken portion. This is a very expensive and labor intensive solution, and is also an inconvenience to residents living in the area and utilizing roadways overlying the area.

Another solution is to reline the sewer pipes on site. Such methods typically utilize a resin coated liner which is inserted into the existing sewer pipe line and fitted against the interior of the sewer pipe. The liner is held against the interior of the pipe while the resin cures to form a new pipe lining within the existing pipe.

One example of such a method is shown in U.S. Pat. No. 4,366,012. In this patent, a process utilizing an elongated bladder tube having an inner tubular liner comprised of felt is shown. Uncured resin is introduced into the bladder tube and is used to impregnate the felt inner liner. The bladder tube and the tubular liner are then inserted into the end of the sewer pipe to be repaired, and moved to the area of the sewer pipe needing repair. Upon reaching the area of the sewer pipe needing repair, the impregnated felt liner is inverted out of the bladder tube so that it is on the outside surface of the bladder tube and is pressed against the interior surface of the sewer pipe. When the resin cures, a new pipe liner is provided at the area to be repaired.

In many cases connection of lateral pipes to main sewer lines for residential or other customers was frequently accomplished by forming a hole in the main line with a sledge or the like. The lateral pipe was then simply abutted against the hole, and then the excavation back filled to cover the juncture. Often, this juncture of the lateral with the main line would leak, and would not provide a tight sealed connection.

With the growing concern regarding the environmental impact of sewage leakage, such junctures are primary concern for repair, and can be repaired simultaneously with the lining of the lateral pipe by the method of the present invention.

### SUMMARY OF THE INVENTION

It is therefore a general object of the present invention to provide an improved method and apparatus for repairing the juncture of a main sewer line with a lateral pipe.

Another object is to provide a method and apparatus for repairing the juncture of a lateral with a main line which may be accomplished solely from the sewer main line.

Another object is to provide an improved seal at the juncture of the lateral pipe to the main sewer line.

Another object is to use a single piece T-shaped or Y-shaped liner at the junction between the main sewer line and the lateral pipe which provides a full circle seal around the interior of the main sewer line and around the interior of the lateral pipe.

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These and other objects of the present invention will be apparent to those skilled in the art.

### SUMMARY OF THE INVENTION

The foregoing objects may be achieved by an apparatus for repairing the junction of a sewer main line and a lateral pipe made according to the present invention. The apparatus comprises a bladder assembly having an elongated main bladder tube and an elongated lateral bladder tube. The main bladder tube includes first and second opposite ends and a main bladder tube opening positioned therebetween. The lateral bladder tube has a first end connected to the main bladder tube opening and has a second end.

The apparatus also includes a liner assembly formed of resin absorbent material and having a main liner tube and a lateral liner tube. The main liner tube includes a first end, a second end and a main liner tube opening intermediate the first and second ends. The lateral liner tube has a first lateral line tube end in communication with the main liner tube opening and is connected to the main liner tube and sealed around the main liner tube opening.

The lateral bladder tube and the lateral liner tube are positioned at least partially within the main bladder tube, with the main liner tube being outside of, and surrounding the main bladder tube and being connected to the lateral liner tube through the main bladder tube opening.

The lateral liner tube is invertible through the main bladder tube opening to an inverted position outside of the main bladder tube whereby the main liner tube is on the exterior of the main bladder tube and the lateral liner tube is on the exterior of the lateral bladder tube.

The present invention also contemplates a method for forming a lateral/bladder assembly comprising forming a bladder assembly having a main bladder tube and a lateral bladder tube. The main bladder tube includes first and second opposite ends and an intermediate opening therebetween. The lateral bladder tube has a first end connected to the intermediate opening of the main bladder tube and has a second end.

The method includes the step of inserting the lateral bladder tube inside the main bladder tube through the intermediate opening. Next, a liner assembly is formed of resin absorbent material and includes a lateral liner tube having a first and second end and a liner sheet having a sheet opening there in surrounding and attaching the first end of the lateral liner tube. The second end of the lateral liner tube is inserted into the intermediate opening of the bladder tube and is positioned at least partially inside the main bladder tube with the first end of the lateral liner tube being adjacent the intermediate opening of the main bladder tube, and with the liner sheet outside of the main bladder tube. The liner sheet is then formed into a main liner tube wrapped around and surrounding the main bladder tube adjacent the intermediate opening of the main bladder tube.

An important feature of the present invention is the T-shaped or Y-shaped liner assembly. This liner assembly is constructed from a resin absorbent material and comprises a main liner tube and a lateral liner tube formed into a T-shaped or Y-shaped configuration. The single piece liner assembly is impregnated with an uncured resinous material capable of curing and hardening. The liner assembly is then positioned within the sewer main line pipe in a position wherein the lateral liner tube extends within the lateral sewer pipe and the main liner tube is within the main line sewer pipe. The main liner tube and the lateral liner tube are then pressed radially outwardly against the interior surfaces of

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the main line sewer pipe and the lateral line sewer pipe respectively. The resin is permitted to cure and harden to form the liner assembly into a single piece whereby the main liner tube provides a full circle seal around the interior of the main sewer pipe on both sides of the damaged junction and the lateral liner tube provides a full circle seal around the interior of the lateral sewer pipe adjacent the damaged junction.

#### BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is an exploded perspective view showing the assembly of the bladder tube of the present invention;

FIG. 2 is a sectional view through the completed bladder tube shown in FIG. 1;

FIG. 3 is a perspective view of a liner assembly being constructed for the liner/bladder assembly of the present invention;

FIG. 4 is a sectional view similar to FIG. 2, but with the liner assembly installed in the bladder assembly, to form the liner/bladder assembly;

FIG. 5 is a pictorial view showing the introduction of uncured resin into the liner/bladder assembly;

FIG. 6 is an enlarged perspective view showing using a roller to facilitate impregnating the liner with the resin;

FIG. 7 is a pictorial view of the liner/bladder assembly being installed on a launcher;

FIG. 8 is a view similar to FIG. 7, showing a further step in connecting the liner/bladder assembly to the launcher;

FIG. 9 is a pictorial view of the launcher with the liner/bladder assembly connected thereto, supported on a work platform;

FIG. 10 is a view similar to FIG. 9, showing a subsequent step in attaching the liner/bladder assembly to the launcher;

FIG. 11 is an enlarged perspective view of the launcher with the liner/bladder assembly attached thereto and ready for installation in a sewer line;

FIG. 12 is a sectional view through the liner/bladder assembly within a sewer line, showing the assembly position within a main line ready for expansion into a lateral pipe;

FIG. 13 is a sectional view similar to FIG. 12, but with the liner/bladder assembly expanded to install the liner.

#### DESCRIPTION OF THE PREFERRED EMBODIMENT

Referring now to the drawings, in which similar or corresponding parts are identified with the same reference numeral, and more particularly to FIG. 1, the T-shaped bladder assembly is designated generally at 12 and forms a part of the liner/bladder assembly 10 shown in FIG. 4. While the bladder assembly 12 is shown to be T-shaped it may also be Y-shaped or otherwise shaped to accommodate the angle at which the main sewer pipe and lateral sewer pipe are disposed relative to one another. Bladder assembly 12 includes a flat sheet 14 of translucent urethane scrim material which is connected to a lateral bladder tube 16 also formed of translucent urethane scrim material. Lateral bladder tube 16 is an elongated member having first and second ends 16A and 16B respectively, with the first end 16A attached around an opening 18 located generally centrally in flat sheet 14. Preferably, lateral tube 16 is attached to sheet 14 by welding or the like to form an airtight seal at the juncture.

Flat sheet 14 is then formed into a tube and two longitudinal side edges 14A and 14B are welded together to form

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a main line bladder tube 20 (shown in broken lines in FIG. 1). Thus, main line bladder tube 20 and lateral bladder tube 16 form a T-shaped or Y-shaped bladder assembly 12 which is a single integral piece that is translucent.

Referring to FIG. 2, the second end 16B of lateral bladder tube 16 is inverted and drawn through the main line bladder tube 20 and out a first end 20A of the main line bladder tube 20, such that the first end 16A of the lateral bladder 16 is inverted to form an opening 22 in the side wall of main line bladder tube 20.

Referring now to FIG. 3, the liner assembly utilized in the liner/bladder assembly 10 shown in FIG. 4 is designated generally at 24. Liner assembly 24 includes a tubular lateral liner 26 connected to a flat sheet liner 28. Both liners 26 and 28 are formed of felt or other resin absorbent material. Lateral liner 26 is formed by connected side edges of a sheet of liner material with a polymer coating on one side, such that the polymer coating 30 is on the exterior of the tube being formed. The edges of the sheet are sewn together at a seam 32, and a strip of polymer tape 34 is welded over the seam to form an airtight seal.

Flat sheet liner 28 has a central opening formed therein, and has a polymer coating 36 on the top surface thereof. The lateral liner tube 26 is sewn to the flat sheet liner 28 around the opening, and a strip of polymer tape 38 is then welded continuously around the juncture to form an airtight seal.

Once liner assembly 24 has been completed, the second end 26B of the lateral liner 26 is inserted into the opening 22 in the side of main line bladder 20 and drawn into the lateral bladder 16 until the liner flat sheet 28 contacts the main line bladder 20. This step may be accomplished by attaching a rope (not shown) to end 26B of the lateral liner 26, and threading the rope through lateral bladder tube 16. Pulling the rope then causes the lateral liner 26 to move to the position shown in FIG. 4.

The second end 16B of the lateral bladder is closed off by inserting plug 15 which is held in place by a clamp 17. Extending through plug 15 are a PVC air pipe 21 and wick 40, as shown in FIGS. 4 and 5. Vacuum opening 19 is provided in the end 16B of bladder tube 16.

A quantity of curable resin 42 in liquid form is then introduced into the opening 44 of flat sheet liner 28 so as to continue into the lateral liner 26 within lateral bladder 16 (shown in FIG. 5). A vacuum source (not shown) is connected over the vacuum opening 19 to collapse the walls of the lateral bladder 16 and lateral liner 26 as shown in FIG. 6. The wick 40 will provide a path for evacuating gas from the lateral bladder 16 until the curable resin moves to the down stream end 16B of lateral liner 16 and completely impregnates the liner. Because the bladder assembly 12 is formed of a translucent material, it is possible to visually verify that the lateral liner 26 is completely impregnated with resin while inside the lateral bladder 16. A roller 46 is preferably utilized to move the slug of resin and assist in impregnating the liner 26 with the resin material.

Referring now to FIGS. 7 and 8, the liner/bladder assembly 10 is loaded into a launcher 48 for installation into a sewer pipe. Launcher 48 includes a hollow cylindrical tube 50 having forward and rearward ends 50A and 50B respectively. An aperture 52 is formed generally through the side wall of the launcher tube 50. The left hand edge of aperture 52 is provided with an upwardly extending flange 70 which facilitates the sliding of lateral bladder tube 16 into the launcher tube 50. The right side of the aperture 52 is provided with a downwardly curved wall 72 (FIG. 12).

Launcher 50 includes a clevis 80 mounted adjacent its rear end. Surrounding the rear end 50B of launcher 50 is a

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ring bearing 82, and mounted to ring bearing 82 are a pair of wheels 84 located at the 5 o'clock and 7 o'clock positions when viewed from an end view (not shown). The ring bearing 82 permits the wheels 84 to remain stationary while the entire body of the launcher 50 can be rotated about its longitudinal axis. Protruding outwardly from the surface of launcher tube 50 adjacent the rear end 50B are a pair of clamping ribs 86. Similarly a clamping rib 86 is provided adjacent the forward end 50A. A circular ring bearing 88 is also provided adjacent the forward end 50A and includes a pair of wheels 90 mounted thereon.

Liner/bladder assembly 10 is installed on the launcher 48 by inserting the second end 16B of lateral bladder 16 through aperture 52 and through launcher tube 50 and out the forward end 50A of the launcher tube 50. As the main line bladder tube 20 approaches the launcher 48, the rearward end 50B of the launcher tube 50 is inserted into the first end 20A of the main line bladder tube 20, as shown in FIG. 8. The flat sheet liner 28 is moved over the launcher side wall aperture 52, with the main line bladder 20 extending on opposite sides of aperture 58.

As shown in FIGS. 9-11, the ends 20A, 20B of the main line bladder tube 20 are attached to the forward and rearward ends 50A and 50B of launcher tube 50 by bands 54, and the launcher tube is connected to a support frame 56 which holds the launcher 48 in the air. A collapsible hose 68 is clamped to the forward end 50A of launcher tube 50 by means of a clamp 92.

A two piece platform 58 is pivoted up into position to support the flat sheet liner 28 above the launcher 48. As shown in FIG. 10, the two piece platform 58 includes two halves 58A and 58B with semicircular holes 60A and 60B which will form an aperture through which the lateral lining will extend when the platform is moved to the support position shown in FIG. 9.

Uncured resin 42 is then poured onto the flat sheet liner 28 and worked into the liner material. The two piece platform 58 is then separated and lowered, as shown in FIG. 10, and the flat sheet liner 28 is wrapped around the main line bladder 20, with one side edge 28A overlapping the other side edge 28B, as shown in FIG. 11. Side edges 28A and 28B are temporarily held tightly together with straps 60 of hook and loop fastener, tape, rubber bands, or other similar fasteners.

A positioning robot 62 is then attached to the rearward end 50B of launcher tube 50, as shown in FIG. 12 and is used to introduce the launcher 48 and liner/bladder assembly 10 into the sewer main line 64. Wheels 84, 90 facilitate movement of assembly 10 within the main sewer line 64. The lateral liner opening 44 is aligned with the lateral pipe 66 to be repaired. Bearings 82, 88 permit the robot 62 to rotate assembly 10 a full 360° so as to obtain alignment. Robot 62 also is capable of extending or retracting to move assembly 10 up to six inches for final exact alignment.

Once positioned, air pressure is applied within the launcher tube 50 via a "lay flat" tube 68 connected to the forward end 50A of launcher tube 50, to inflate the lateral bladder 16 and invert the lateral bladder upwardly into lateral pipe 66. The air pressure also presses the main liner 20 radially outwardly against main sewer line 64 and presses lateral liner 26 radially outwardly against lateral pipe 66 until the resin impregnated in the lateral liner 26 and main line liner 28 cures. Once cured, the generally T-shaped or Y-shaped liner assembly 24 is a one piece liner connecting the main pipe 64 with the lateral pipe 66 to seal them together. It provides full circle sealing of both the lateral

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pipe 66 and the main pipe 64. Because of the use of the polymer coated liner assembly 24, the actual liner assembly can be tested prior to installation in the ground, to ensure an airtight connection.

Whereas the invention has been shown and described in connection with the preferred embodiment thereof, many modifications, substitutions and additions may be made which are within the intended broad scope of the appended claims.

I claim:

1. A method for forming a liner/bladder assembly for repairing the junction of a main line pipe and a lateral pipe, said method comprising:

forming a main bladder tube and a lateral bladder tube, said main bladder tube having first and second opposite ends and an intermediate opening therebetween, said lateral bladder tube having a first end connected to said intermediate opening of said main bladder tube and having a second end;

inserting said lateral bladder tube inside said main bladder tube through said intermediate opening; forming a lateral liner tube and a liner sheet of resin absorbent material, said lateral liner tube having first and second ends, said liner sheet having a sheet opening therein surrounding and attached to said first end of said lateral liner tube;

inserting said second end of said lateral liner tube into said intermediate opening of said main bladder tube and positioning said lateral liner tube at least partially inside said main bladder tube with said first end of said lateral liner tube being adjacent said intermediate opening of said main bladder tube and with said liner sheet outside said main bladder tube;

forming said liner sheet into a main liner tube wrapped around and surrounding said main bladder tube adjacent said intermediate opening of said main bladder tube;

impregnating said main liner tube and said lateral liner tube with an uncured resinous material capable of curing in a predetermined length of time, said impregnating step being done after said inserting step.

2. A method according to claim 1 and further comprising impregnating said liner sheet with said uncured resinous material before said step of forming said liner sheet into a main liner tube.

3. A method according to claim 1 and further comprising taking a launcher tube having first and second opposite ends and a launcher tube opening therebetween, and positioning said main bladder tube in surrounding relation to said launcher tube with said launcher tube opening and said intermediate opening of said main bladder tube being in registered alignment and with said first and second ends of said launcher tube protruding outwardly from said first and second opposite ends of said main bladder tube.

4. A method according to claim 3 and further comprising attaching said first and second opposite ends of said main bladder tube in sealed engagement with the exterior of said launcher tube.

5. Apparatus for repairing the junction of a sewer main line and a lateral pipe connected thereto, comprising:

an elongated main bladder tube and an elongated lateral bladder tube, said main bladder tube having first and second opposite ends and a main bladder tube opening positioned there between, said lateral bladder tube having a first end connected to said main bladder tube opening;

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a main liner tube and a lateral liner tube formed of resin absorbent material, said main liner tube having first and second opposite ends and a main liner tube opening there between, said lateral liner tube having a first lateral liner tube end connected to said main liner tube opening;

a launcher tube having first and second opposite ends and a launcher tube opening there between;

said main bladder tube being outside and surrounding said launcher tube and said lateral bladder tube extending through said launcher tube opening into the inside of said launcher tube;

said main liner tube being outside and surrounding said main bladder tube and said launcher tube, said lateral liner tube extending through said launcher tube opening into the inside of both said launcher tube and said lateral bladder tube;

said lateral bladder tube and said lateral liner tube being invertible through said launcher tube opening to an inverted position outside said launcher tube wherein said main liner tube and said lateral liner tube are on the exterior of said main bladder tube and said lateral bladder tube.

6. An apparatus according to claim 5 and further comprising said first and second opposite ends of said main bladder tube being attached to and sealed around the exterior of said launcher tube.

7. A method for repairing a damaged junction between a main line sewer pipe and a lateral sewer pipe, said method comprising:

forming a main bladder tube and a lateral bladder tube, said main bladder tube having first and second opposite ends and a main bladder tube opening there between, said lateral bladder tube having a first end connected to said main bladder tube opening;

forming a main liner member and a lateral liner tube of resin absorbent material, said main liner member having a main liner opening therein, said lateral liner tube having a first lateral liner tube end connected to said main liner opening;

inserting said lateral liner tube at least partially inside said lateral bladder tube while at the same time keeping said main liner member at least partially outside said main bladder tube;

inserting said lateral liner tube and said lateral bladder tube at least partially into the inside of a launcher tube through a launcher tube opening in said launcher tube while at the same time keeping said main bladder tube and said main liner member at least partially outside of said launcher tube.

8. A method according to claim 7 and further comprising inserting said launcher tube into said main line of said sewer, registering said launcher tube opening with said junction of said lateral pipe and said main line pipe, and inverting said lateral bladder tube and said lateral liner tube out of said launcher tube into said lateral pipe with said lateral liner tube being outside said lateral bladder tube.

9. A method according to claim 8 and further comprising pressing said main liner tube radially outwardly against said main line pipe, permitting said curable resin to cure and harden, and removing said launcher tube, said main bladder tube, and said lateral bladder tube from said main line sewer pipe.

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10. A method for repairing a damaged junction between a main line sewer pipe and a lateral sewer pipe, said method comprising:

constructing a single piece liner assembly from a resin absorbent material, said liner assembly comprising a main liner tube and a lateral liner tube, said main liner tube having first and second opposite ends and a main liner tube opening there between, said lateral liner tube having first and second ends, one of which is connected to said main liner tube opening of said main liner tube to provide communication from the interior of said lateral liner tube through said main liner tube opening to the interior of said main liner tube;

impregnating said main liner tube and said lateral liner tube with an uncured resinous material capable of curing and hardening;

mounting said liner assembly to a launcher tube having first and second opposite ends and a launcher tube opening positioned there between, said mounting step comprising placing said lateral liner tube within said launcher tube and placing said main liner tube on the exterior of said launcher tube, said lateral liner tube and said main liner tube being connected to one another through said launcher tube opening;

moving said launcher tube within said main line sewer pipe to a position wherein said launcher tube opening is in registered alignment with said damaged junction; and

inverting said lateral liner tube out of said launcher tube through said launcher tube opening into said lateral sewer pipe;

pressing said main liner tube radially outwardly into engagement with the interior surface of said main line sewer pipe and said lateral liner tube radially outwardly into engagement with the interior surface of said lateral sewer pipe;

permitting said resin to cure and harden whereby said main liner tube provides a full circle seal around the interior of said main sewer pipe on both sides of said damaged junction, and said lateral liner tube provides a full circle seal around the interior of said lateral sewer pipe adjacent said damaged juncture.

11. A method according to claim 10 wherein a lateral bladder tube surrounds said liner tube within said launcher tube and a main line bladder tube surrounds said launcher tube, said inverting step further comprising inverting said bladder tube through said launcher tube opening into said lateral sewer pipe whereby said lateral liner tube is outside said lateral bladder tube and in engagement with the interior of said lateral sewer pipe.

12. A method according to claim 10 wherein said pressing step further comprises radially expanding a main bladder tube located between said main liner tube and the exterior of said launcher tube to press said main liner tube radially outwardly toward said main line sewer pipe.

13. A method according to claim 10 wherein said pressing step further comprises radially expanding a lateral bladder tube located inside said lateral liner tube to press said lateral liner tube radially outwardly toward said lateral sewer pipe.

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**FILED**

JUL 24 2006



**MICHAEL W. DONNIN** UNITED STATES DISTRICT COURT  
**CLERK, U.S. DISTRICT COURT** NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LMK ENTERPRISES, INC.,	)	<b>06CV3970</b>
	)	<b>JUDGE CONLON</b>
Plaintiffs,	)	<b>MAG. JUDGE ASHMAN</b>
	)	
v.	)	
	)	
LIQUI-FORCE SERVICES, and LIQUI-	)	
FORCE SERVICES USA, INC.	)	JURY TRIAL DEMAND
	)	
Defendants.	)	

**COMPLAINT**

COMES NOW the Plaintiff, LMK Enterprises, Inc. ("LMK"), and for its complaint against the Defendants, Liqui-Force Services ("Liqui-Force (Canada)") and Liqui-Force Services USA, Inc. ("Liqui-Force (USA)"), states and alleges as follows:

**THE PARTIES**

1. Plaintiff LMK is a corporation organized and existing under the laws of the state of Illinois with its principal place of business at 1779 Chessie Lane, Ottawa, Illinois 61350.
2. Upon information and belief, Liqui-Force (Canada) is a Canadian company having its principal place of business at 2015 Sprinks Drive, RR2 Kingsville, Ontario N9Y 2E5.
3. Upon information and belief, Liqui-Force (USA) is a corporation organized and existing under the laws of the state of Michigan, having offices at 28529 Goddard Road, Ste. 106, Romulus, Michigan 48174.

### VENUE AND JURISDICTION

4. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and § 1338(a) and 35 U.S.C. § 1, *et seq.*, there being a federal question at issue. This Court also has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332, since this action is between citizens of different states and the value of this matter exceeds \$75,000, exclusive of interest and costs. This Court also has supplemental jurisdiction of the state and common law claims under 28 U.S.C. § 1367.

5. Defendant Liqui-Force (Canada) has consented to the jurisdiction of the Illinois courts for resolving disputes in this case, pursuant to a forum selection clause contained in a license agreement effective November 27, 1998 (copy attached as Exhibit 1).

6. Defendant Liqui-Force (USA) has consented to the jurisdiction of the Illinois courts for resolving disputes in this case, pursuant to a forum selection clause contained in a license agreement effective March 9, 1998 (copy attached as Exhibit 2).

7. Further, Defendants have intentionally directed their actions to this district by undertaking the conduct alleged below, when Defendants knew or should have known that the brunt of injury would be suffered in this district.

8. Venue is proper under 28 U.S.C. § 1391, as acts or omissions giving rise to the present case or controversy occurred, at least in part, within this state and district. Defendants also consented to having all disputes in this case resolved by Illinois courts, pursuant to the aforementioned forum selection clauses.

**COUNT I: PATENT INFRINGEMENT – U.S. PATENT NO. 6,039,079**  
**(As to All Defendants)**

9. Plaintiff LMK incorporates by reference the allegations of paragraphs 1-8 above.

10. On March 21, 2000, United States Letters Patent 6,039,079, entitled "Apparatus and Method for Repairing the Junction of a Sewer Main Line and Lateral Pipe" was duly and legally issued in the name of Larry W. Kiest, Jr., and the entire right, title and interest in and to said patent has been assigned to Plaintiff LMK, as reflected by the information appearing on the face of the patent. A copy of the aforesaid patent is attached hereto as Exhibit 3.

11. Upon information and belief, Defendants Liqui-Force (Canada) and Liqui-Force (USA) have infringed certain claims of United States Patent No. 6,039,079, and threaten to continue their infringement by performing the methods claimed in the patent without authority to do so, all in violation of 35 U.S.C. § 271. Plaintiff LMK has been damaged by Defendants' infringement of United States Patent No. 6,039,079 and will continue to be damaged in the future unless Defendants are permanently enjoined from infringing, either directly or indirectly, said patent.

12. Upon information and belief, Defendants have both constructive and actual notice of Plaintiff LMK's patent and in particular that said patent was duly and legally issued and Defendants are aware or should be aware that their activities directly infringe United States Patent No. 6,039,079.

13. Upon information and belief, Defendants' infringement of United States Patent No. 6,039,079 is now and has been intentional, willful, and deliberate.

**COUNT II: BREACH OF CONTRACT**  
**(MARCH 9, 1998 LICENSE AGREEMENT)**  
**(As to Defendant Liqui-Force (USA))**

14. Plaintiff LMK incorporates by reference the allegations of paragraphs 1-13 above.

15. On March 9, 1998, Plaintiff LMK and Defendant Liqui-Force (USA) entered into a License Agreement (Exhibit 2).

16. Plaintiff LMK performed fully under the License Agreement.

17. Defendant Liqui-Force (USA) has breached the express terms of the March 9, 1998, License Agreement by using the licensed products and services without making royalty payments to LMK.

18. Defendant Liqui-Force (USA) has further breached the License Agreement by refusing to convey ownership to LMK of improvements to the licensed products and services, including but not limited to any rights and inventions in U.S. Patents 6,484,757; 6,695,013; 6,827,526.

19. Defendant Liqui-Force (USA) has further breached the License Agreement by using the Licensed Products and Licensed Services outside of the Licensed Territory.

20. Plaintiff LMK has demanded from Defendant Liqui-Force (USA) royalty payments for unauthorized use of the licensed products and services.

21. Plaintiff LMK has demanded from Defendant Liqui-Force (USA) that it conveys ownership to LMK of all inventions for improvements to the licensed products and services.

22. Plaintiff LMK has demanded from Defendant Liqui-Force (USA) that it cease using the Licensed Products and Licensed Services outside of the Licensed Territory.

23. Despite the repeated demands of Plaintiff LMK, Defendant Liqui-Force (USA) still refused to pay the royalties, convey to LMK ownership of all inventions for improvements to the licensed products and services and cease using the Licensed Products and Licensed Services outside the Licensed Territory.

24. The License Agreement includes a covenant by Liqui-Force (USA) to not provide or offer to provide to customers any goods or services which are competitive with the licensed products and services as defined by the License Agreement for a period of two years after termination of this Agreement.

25. The License Agreement was expressly terminated by LMK on June 15, 2005.

26. Defendant Liqui-Force (USA) has continued to provide and offer to provide customers goods and services competitive with the licensed products and services as defined by the License Agreement.

27. Defendant Liqui-Force's (USA) actions are in violation of the covenant not to compete contained in the License Agreement.

28. If Defendant Liqui-Force (USA) is permitted to continue violating this Agreement by providing and offering to provide customers goods and services competitive with the licensed products and services, as defined by the License Agreement, LMK's relationship with its customers will be disrupted and LMK will suffer substantial and irreparable injury to its goodwill and business for which it has no adequate remedy at law.

29. As a result of Defendant Liqui-Force's (USA) breaches of contract, LMK has suffered damages, in an amount not yet ascertained.

**COUNT III: BREACH OF CONTRACT**  
**(NOVEMBER 27, 1998 LICENSE AGREEMENT)**  
**(As to Defendant Liqui-Force (Canada))**

30. Plaintiff LMK incorporates by reference the allegations of paragraphs 1-29 above.

31. On November 27, 1998, Plaintiff LMK and Defendant Liqui-Force (Canada) entered into a License Agreement (Exhibit 1).

32. Plaintiff LMK performed fully under the License Agreement.

33. Defendant Liqui-Force (Canada) has breached the express terms of the November 27, 1998, License Agreement by using the licensed products and services without making royalty payments to LMK.

34. Defendant Liqui-Force (Canada) has further breached the License Agreement by refusing to convey ownership to LMK of improvements to the licensed products and services, including but not limited to any rights in U.S. Patents 6,484,757; 6,695,013; 6,827,526.

35. Defendant Liqui-Force (Canada) has further breached the License Agreement by using the Licensed Products and Licensed Services outside of the Licensed Territory.

36. Plaintiff LMK has demanded from Defendant Liqui-Force (Canada) royalty payments for unauthorized use of the licensed products and services.

37. Plaintiff LMK has demanded from Defendant Liqui-Force (Canada) that it conveys ownership to LMK of all inventions for improvements to the licensed products and services.

38. Plaintiff LMK has demanded from Defendant Liqui-Force (Canada) that it cease using the Licensed Products and Licensed Services outside of the Licensed Territory.

39. Despite the repeated demands of Plaintiff LMK, Defendant Liqui-Force (Canada) still refused to pay the royalties, convey to LMK ownership of all inventions for improvements to the licensed products and services, including ownership of said patents and cease using the Licensed Products and Licensed Services outside the Licensed Territory.

40. The License Agreement includes a covenant by Liqui-Force (Canada) to not provide or offer to provide to customers any goods or services which are competitive with the licensed produced and services as defined by the License Agreement for a period of two years after termination of this Agreement.

41. The License Agreement was expressly terminated by LMK on June 15, 2005.

42. Defendant Liqui-Force (Canada) has continued to provide and offer to provide customers goods and services competitive with the licensed produces and services as defined by the License Agreement.

43. Defendant Liqui-Force's (Canada) actions are in violation of the covenant not to compete contained in the License Agreement.

44. If Defendant Liqui-Force (Canada) is permitted to continue violating this Agreement by providing and offering to provide customers goods and services competitive with the licensed products and services, as defined by the License Agreement, LMK's relationship with its customers will be disrupted and LMK will suffer substantial and irreparable injury to its goodwill and business for which it has no adequate remedy at law.

45. As a result of Defendant Liqui-Force's (Canada) breaches of contract, LMK has suffered damages, in an amount not yet ascertained.

**COUNT IV: TO QUIET TITLE TO INTELLECTUAL PROPERTY**

**(As to All Defendants)**

46. Plaintiff LMK incorporates by reference the allegations of paragraphs 1-45 above.

47. Plaintiff LMK owns and is entitled to possess property relating to inventions, whether patentable or otherwise, for the improvements to the products and services licensed to Defendants Liqui-Force (USA) and Liqui-Force (Canada).

48. Defendants claim an interest in such property adverse to Plaintiff LMK, including but not limited to U.S. Patents 6,484,757; 6,695,013; and 6,827,526

49. Defendants' claims are without any right, and Defendants have no estate, right, title, lien or interest in the described property or any part of it.

50. Plaintiff LMK lacks an adequate remedy at law for settling title to the subject property.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff LMK prays on its causes of actions as follows:

a. A judgment against Defendants as to all counts in the Complaint;

b. A judgment that Defendant Liqui-Force (USA) has infringed United States Patent No. 6,039,079;

c. A judgment that Defendant Liqui-Force (Canada) has infringed United States Patent No. 6,039,079;

d. An injunction enjoining and restraining Defendants, their officers, directors, agents, servants, employees, attorneys and all others acting under or through them, directly or indirectly, from infringing United States Patent No. 6,039,079;



- c. A judgment that Defendants' infringement of United States Patent No. 6,039,079 has been willful and deliberate;
- f. A judgment requiring Defendants to pay damages under 35 U.S.C. § 284 for the infringement, including treble damages due to the knowing, willful and wanton nature of Defendants' conduct;
- g. A judgment and order directing Defendants to pay the costs of this action, including all disbursements and attorneys' fees as provided by 35 U.S.C. § 285;
- h. An order of prejudgment interest from the date of first patent infringement to entry of judgment;
- i. Judgment that Plaintiff be awarded all damages for Defendants' breach of contract to which Plaintiff is legally entitled, in an amount to be determined at trial, adequate to compensate Plaintiff for Defendants' breach of contract;
- j. An injunction preliminarily and permanently enjoining for a reasonable period of time Defendants, their officers, directors, agents, servants, employees, attorneys and all others acting through them, directly or indirectly, from providing and/or offering to provide customers with goods or services which are competitive with the licensed products as defined by the License Agreement;
- k. Judgment that Plaintiff be awarded all damages for Defendants' breach of the covenant not to compete to which Plaintiff is legally entitled, in an amount to be determined at trial, adequate to compensate Plaintiff for Defendants' breach of contract.
- l. That the claim of quiet title to intellectual property be determined by decree of this Court;

m. That the decree declare and adjudge that Plaintiff owns absolutely and is entitled to the quiet and peaceful possession of the property and that Defendants and all persons claiming under them, have no estate, right, title, lien or interest in or to the property adverse to Plaintiff;

n. That the decree permanently enjoin Defendants from asserting any claim in or to the property adverse to Plaintiff;

o. Judgment against Defendants for recovery of the possession of the property;

p. Judgment awarding costs and attorneys' fees as provided by law;

q. Judgment awarding pre-judgment interest against Defendants' as provided by law;

and

r. Judgment awarding such other and further relief, both legal and equitable, as the Court may find just under the circumstances of the present case.

**JURY DEMAND**

Plaintiff LMK hereby demands a trial by jury on all counts and all issues.

Respectfully submitted,



\_\_\_\_\_  
ATTORNEYS FOR PLAINTIFF

Douglas M. Hall  
Gregory P. Casimer  
Niro, Scavone, Haller & Niro  
181 W. Madison, Suite 4600  
Chicago, IL 60602  
(312) 236-0733  
(312) 236-3137 (Fax)

*OF COUNSEL*

Jeffrey D. Harty  
Robert A. Hodgson  
McKEE, VOORHEES & SEASE, P.L.C.  
801 Grand Avenue, Suite 3200  
Des Moines, IA 50309-2721  
Phone: 515-288-3667  
Fax: 515-288-1338  
Email: [harty@ipmvs.com](mailto:harty@ipmvs.com)  
Email: [Hodgson@impvs.com](mailto:Hodgson@impvs.com)  
Email: [mvsht@ipmvs.com](mailto:mvsht@ipmvs.com)

**Performance Liner™  
Non-Exclusive License Agreement  
(T-Liner™)**

THIS AGREEMENT, entered into by and between LMK Enterprises, Inc. an Illinois Corporation, of 1779 Chessie Lane, Ottawa, Illinois 61350, USA and Liqui Force Services of 2015 Sprinks Dr., RR2 Kingsville, Ontario N9Y 2E5, Canada.

WHEREAS, Licensor is the sole owner of the entire right, title and interest in and to Patents and Patent Applications (referred to hereafter as "Patent Rights") as shown in Exhibit "A."

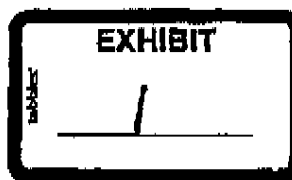
WHEREAS, Licensor is the owner of the trademark T-Liner™

WHEREAS, Licensee desires a non-exclusive license under the Patent Rights, and the right to use the T-Liner™ trademark.

Now therefore, in consideration of the covenants set forth therein, the parties hereby agree as follows:

**ARTICLE I - DEFINITIONS**

- 1.1 The EFFECTIVE DATE of this Agreement shall be November 27, 1998.
- 1.2 PATENT RIGHTS shall mean the Patents and Patent applications set out in Exhibit "A" attached hereto and any divisionals, continuations, continuations-in-part, improvements and reissues thereof and any patents granted on reexamination thereof.
- 1.3 PROPRIETARY TECHNOLOGY shall mean all confidential information and know-how disclosed to Licensee by Licensor during the term of this Agreement and which is not known to the public, disclosed in an issued patent, or otherwise in the public domain.
- 1.4 LICENSED PRODUCTS shall mean devices or equipment coming within one or more claims of the Patent Rights or utilizing Licensors Proprietary Technology.
- 1.5 LICENSED SERVICES shall mean the method coming within one or more claims of the Patent Rights or utilizing Licensors Proprietary Technology.
- 1.6 MAIN/LATERAL REPAIR SERVICES shall mean the use of Licensed Products and Services which relate to lining a lateral pipe and a short section of a mainline pipe simultaneously utilizing an inversion method for installing the lateral portion and an inflation method for installing the mainline portion and the use of a fabric liner and/ or an inflation bladder by the same means.



1.7 LICENSED TRADEMARK shall mean the trademark T-Liner™ as used on or in connection with LICENSED PRODUCTS and/or SERVICES.

1.8 LICENSED TERRITORY shall mean the geographic territory identified in Exhibit "B."

## ARTICLE II - OWNERSHIP

2.1 Licensee agrees that Licensor is the owner of the entire right, title, and interest in and to said Patent Rights, and the inventions disclosed and claimed therein, the Proprietary Technology, the trademark T-Liner™ and that it has the right to grant the License granted herein.

2.2 Licensee agrees that the Proprietary Technology is confidential until such time as it is disclosed in an issued patent or otherwise publicly disclosed; and that it is proprietary to Licensor. Licensee covenants to protect this Proprietary Technology from unauthorized use or inspection by others and not to duplicate or assist others in duplication of this or similar equipment, materials or technology.

## ARTICLE III - GRANT OF LICENSE

3.1 Licensor hereby grants to Licensee the non-exclusive right and License, subject to the conditions herein set forth, only to use (not to make or sell) Licensed Products and only to use and sell Licensed Services for the limited purpose of Sectional and Lateral Repair Services. The License granted by this Agreement shall be limited to the Licensed Territory defined in attached Exhibit "B." This License shall not include the right to sub-license nor to bring suit for infringement.

3.2 Licensee shall mark all Licensed Products and literature promoting Licensed Products and Services with the appropriate patent notice, which shall include the patent numbers of any issued patent Rights and the term "Patent Pending" while the patent application is pending.

3.3 This license is limited to Licensee's use of any Licensed Products purchased from licensor only in the provision of Sectional and Lateral Repair Services.

3.4 Licensee will not perform or offer to perform Licensed Products or Services outside of the Licensed Territory.

#### ARTICLE IV - PAYMENT FOR PATENT LICENSE

4.1 At the signing of the license, Licensee will pay **\$1.00 USD** for the nonexclusive territorial license. After the signing of the license the Licensee shall obtain contracts for the installation of the T-Liner process. At that time the Licensee shall purchase the necessary support equipment and listed in Exhibit "C". Therein the first year of operation and in each subsequent year, the Licensee agrees to purchase \$30,000.00 in Kits the first year and then each subsequent year at the then current prices FOB Licensor factory and will make payment in full without offset within (30) thirty days of invoice. Failure to meet this minimum standard may result in termination of this License, at the sole option of the Licensor. Licensee may purchase additional equipment shown on Exhibit "C" at the current prices FOB Licensor factory and will make payment in full without offset within (30) days of invoice.

4.2 So long as Licensee purchases from Licensor all of its requirements for equipment and materials shown on Exhibit "C" for the provision of licensed products and services to its customers, there will not be royalties owed for this portion of the license. However, if the Licensee utilizes materials or equipment shown on Exhibit "C" that is not purchased from Licensor, then Licensee shall pay, as payment for this license, a royalty of 10% of the Licensee's sales proceeds for the Licensed Products and Services provided to its customers without equipment, products, or services purchased from Licensor.

#### ARTICLE V - GRANT OF LICENSE TRADEMARK

5.1 Licensor grants Licensee the non-exclusive right to use the trademark T-Liner on or in connection with the T-Liner Products and Services. This license shall be limited to the Licensed Territory.

5.2 Licensee's use of the trademark T-Liner shall be limited to the sale, promotion or offering for sale of the Licensed Products and Services, and shall not be utilized on or in connection with any other products or services or in the company name without Licensor's approval.

5.3 Licensor shall have the right, but not the obligation, to inspect and monitor during normal business hours the nature and quality of goods and services Licensee provides under the trade mark T-Liner. Licensee shall maintain the standards of quality of goods and services provided under these marks as Licensor shall specify from time to time.

5.4 Licensee shall not use or promote any products or materials outside the scope of this License which are competitive with the Licensed Products and Services during the term of this License. As used herein term "competitive" shall mean any product or service used for lining the interior of a lateral and main pipe connection with a cured in place pipe.

5.5 Upon termination of this Agreement, Licensee shall cease all use of the Licensed Trademark and shall return or destroy all printed materials bearing the Licensed Trademark.

5.6 Upon termination, Licensor will purchase any liner kits less a 30% restocking fee. Specialty liners (non standard liners) will have a 50% restocking fee. The Licensee will be responsible for shipping charges.

#### **ARTICLE VI - INSURANCE AND HOLD HARMLESS**

6.1 Licensee hereby agrees to hold Licensor harmless for all liability, attorneys fees, and other costs incurred by Licensor for claims made against Licensor by third parties arising from any act or omission on the part of Licensee.

6.2 Licensee shall name the Licensor as an additional insured under its Liability and Contractors Insurance Policy with minimum limits of One Million Dollars per each occurrence, per annum aggregate for injury to persons and annual aggregate for damage to property and provided a Certificate of such insurance with a thirty day notice of cancellation.

6.3 The Licensor does not represent or guarantee that the T-Liner™ does not nor will not infringe other patents. However, to the best of Licensor's knowledge the T-Liner™ process does not infringe upon any other patent and this knowledge is based upon Licensor's research and patent searches.

#### **ARTICLE VII - TERM OF AGREEMENT**

7.1 The term of this Agreement shall commence upon its EFFECTIVE DATE, and unless sooner terminated as herein provided, shall continue in full force and effect until the expiration of all the PATENT RIGHTS licensed hereunder.

## ARTICLE VIII - RIGHT TO TERMINATE

8.1 Licensee shall have the right to terminate this Agreement for any reason by depositing notice thereof in the mail, address to Licensor, thirty days before the date at which the Licensee shall elect to have such terminations become effective. Such termination shall not relieve or excuse Licensee from performing all duties and obligations under this Agreement through the date of termination.

8.2 Licensor shall have the right, at its option, to terminate this License and divest Licensee of all rights granted to it by virtue hereof by giving a thirty day written notice to the Licensee upon the happening of any of the following events:

a) In the event that the licensee is in default in its performance of any of its obligations under this agreement, licensor shall, at its option, have the right to terminate this license by serving notice in writing to licensee that if default is not cured within one month after the date of such notice, the license shall terminate. This license shall automatically terminate at the end of the one month period, unless licensee cures its default and performs all of its duties and obligations under this agreement before the end of the one month period;

b) a competitor of the Licensor becomes a shareholder of consequence of the Licensee or the Licensee comes under the direct or indirect or de facto or control of any other person, firm or company (other than those presently exercising control), whether by sale, nationalization, conveyance, operation of law or otherwise;

c) the Licensee suffers the appointment of a receiver or files bankruptcy or is unable to pay for products and services in a timely manner;

d) due to this Agreement, in whole or in part, being ruled invalid or unenforceable for any reason;

e) the Licensee does not conform to the Licensor's or the industry standards in quality of workmanship.

## ARTICLE IX - EFFECTS OF TERMINATION

9.1 Immediately upon termination, the Licensee shall cease any and all use of the T-Liner and its trademark.

9.2 Licensee covenants not to provide or offer to provide to customers any goods or services which are competitive with the Licensed Products and Services as defined in section 1.5 for a period of two years after termination of this agreement.



9.3 Licensor shall not be liable to Licensee upon any termination, expiration or non-renewal of this Agreement for compensation, reimbursement or damages on account of the loss of prospective profits on anticipated sales, or on account of expenditures, investments, lease commitments in connection with the business, or goodwill of Licensee for any indirect, special or consequential damages.

9.4 Licensee shall surrender its rights hereunder peaceably and in good faith and save as provided hereinafter, make no use of the same.

#### ARTICLE X - MISCELLANEOUS

10.1 The construction and performance of this Agreement shall be governed by the laws of the State of Illinois. The parties agree that any disputes relative to the terms of this agreement will be resolved in Illinois courts and both parties consent to the jurisdiction of the Illinois courts for that purpose.

10.2 No waiver by either Licensee or Licensor, express or implied, of any breach of any term condition or obligation of this Agreement by the other shall be construed as a waiver of any subsequent breach of that term, condition, or obligation, or any other term, condition, or obligation of the Agreement of the same or different nature.

10.3 If it should be determined that one or more portions of this Agreement is or are invalid, such invalidation shall not operate to relieve the parties hereto of their rights and obligations with respect to each other under the remaining portions of this agreement.

10.4 Any inventions for improvements to the Licensed Products and Services, whether patentable or not, shall be owned by Licensor regardless whether or not developed by or invented by Licensor or Licensee or both.

10.5 This Agreement shall inure to the benefit of and will be binding upon all heirs, and administrators of Licensor and upon the legal representatives and successors of Licensee. This Agreement shall not be assignable by Licensee without prior approval from the Licensor.

10.6 This Agreement supersedes all oral and written agreements between Licensor and Licensee.

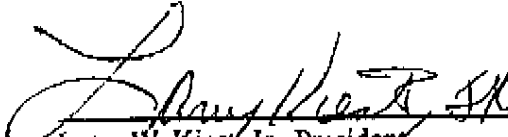
10.7 This Agreement may not be modified by either party, in whole or in part, except by an additional Agreement in writing signed by Licensor and Licensee.

10.8 Any notice required herein shall be sent by registered or certified mail and addressed as follows or to such other addresses as either party designates from time to time by written notice to the other.

10.9 The NON-DISCLOSURE agreement attached in EXHIBIT "D" shall be binding and shall become part of this license upon the signing. The Licensee shall be responsible for ensuring that all employee's associated with the T-Liner™ process have signed attachment "A".

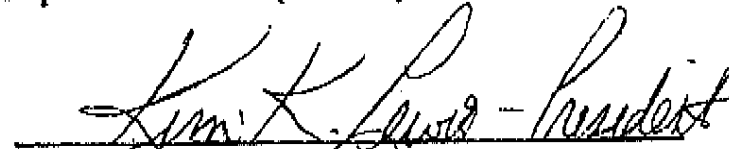
IN WITNESS WHEREOF, the parties have respectively caused this instrument to be executed by an official thereunto duly authorized and their respective signatures to be hereunto affixed as of the day and year indicated.

**LMK Enterprises, Inc. (Licensor)**


  
\_\_\_\_\_  
Larry W. Kiest, Jr., President

November 14, 1998  
Date

**Liqui Force Services (Licensee)**

  
\_\_\_\_\_  
Kim Lewis, Sr., President

Dec. 1/98  
Date

Witness:   
\_\_\_\_\_