

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

ACECO VALVE, INC., an	)	
Oklahoma Corporation,	)	
	)	
Plaintiff,	)	
	)	Civil Action No.: 06-CV-00591-TCK-PJC
v.	)	
	)	
FMC TECHNOLOGIES, INC.,	)	
a Delaware Corporation,	)	
	)	
Defendant.	)	

**PLAINTIFF’S FIRST AMENDED COMPLAINT**

Plaintiff Aceco Valve, Inc., by and through its undersigned attorneys, files this First Amended Complaint against FMC Technologies, Inc., (“FMC”), for patent infringement of U.S. Patent No. 6,669,171 in violation of the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

**PARTIES**

1. Plaintiff Aceco Valve, Inc. (“Aceco”) is incorporated under the laws of the State of Oklahoma and has its principal place of business in Okmulgee County, Oklahoma.
2. FMC is incorporated under the laws of the State of Delaware and has its principal place of business in Houston, Texas.
3. FMC provides technology solutions for the energy, food processing and air transportation industries. FMC designs, manufactures, sells and services technological systems and products for its customers through its Energy Systems (comprising Energy Production and Energy Processing), Food Processing and Airport Equipment and Services businesses. FMC, acting through its Energy Systems and other divisions, regularly, systematically and purposefully conducts business in the State of Oklahoma. Among other activities, FMC offers the infringing

valves on its website (See **Exhibit “A”** attached hereto and incorporated by reference.). Consistent with its business activities and presence in the State of Oklahoma, FMC has qualified to do business in the State of Oklahoma. FMC has designated the Corporation Company, 120 North Robinson, Suite 735, Oklahoma City, Oklahoma, 73102, as its registered agent.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over the subject matter of Aceco’s Complaint pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant FMC because, among other things, it has physically conducted and continues to physically conduct business throughout the State of Oklahoma and in this judicial district.

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

### **BACKGROUND**

7. Aceco manufactures manifold valves for use in offshore and inland production manifold and high-pressure flowline applications. Aceco’s valves offer maximum compactness, significant cost savings and are available to purchasers of both new production manifolds and replacement valves for existing manifolds. Aceco also manufactures a line of pipeline pigging valves.

8. On December 30, 2003, United States Patent No. 6,669,171 (“the ‘171 patent”), entitled “Compact Manifold Trunnion Ball Valve,” was duly and legally issued by the United States Patent and Trademark Office. The ‘171 patent names Gerald A. Stunkard as its inventor and Aceco as its assignee. Accordingly, Aceco owns by assignment the entire right, title, and

interest in the '171 patent such that it may enforce that patent. A copy of Aceco's '171 patent is attached hereto as **Exhibit "B"**.

9. The '171 patent broadly claims ball valves for use particularly in conduit manifold systems and more particularly concerns a compact manifold ball valve having fire-safe features to maintain the sealing integrity thereof when the valve has been subjected to sufficient heat for sufficient period of time to destroy the elastomer and polymer sealing elements. More particularly, the '171 patent is directed to a ball valve mechanism having a ball defining integral trunnions which are supported for rotation within the valve chamber by trunnion support and bearing assemblies that are disposed within seat pockets that are also defined by the valve body. Additionally, the '171 patent concerns a compact trunnion ball valve having an actuating stem and a threaded seat retainer which are blow-out proof even under conditions of fire.

10. Plaintiff has placed the required statutory notice under 35 U.S.C. §287 on products and on literature describing the above patent and has put the Defendant FMC on actual notice of the existence of the '171 patent. (See **Exhibit "C"** attached hereto and incorporated by reference.)

### **CAUSE OF ACTION**

#### **INFRINGEMENT OF THE '171 PATENT**

11. Aceco repeats and realleges the allegations of paragraphs 1 through 10 as though fully set forth herein.

12. Defendant FMC has been and is directly infringing, actively inducing others to infringe and/or contributing to the infringement of the '171 patent by making, using, importing

into the United States, offering for sale, selling, and/or otherwise distributing compact manifold trunnion ball valves in violation of 35 U.S.C. § 271.

13. Defendant FMC's infringement has injured or will injure Aceco and Aceco is entitled to recover damages adequate to compensate it for Defendant's infringement, which in no event can be less than a reasonable royalty.

14. Defendant FMC's infringement has been deliberate, willful, intentional, and with full knowledge of the existence of the '171 patent.

15. Defendant FMC has caused or will cause Aceco substantial damage and irreparable injury by its infringement of the '171 patent, and Aceco will continue to suffer damage and irreparable injury unless and until Defendant is enjoined by this Court from continuing its infringement.

16. Aceco is entitled to injunctive relief and compensatory relief, including attorneys' fees and costs, as well as enhanced damages pursuant to 35 U.S.C. §§ 271, 281 and 283-85.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Aceco respectfully requests that this Court enter Judgment in favor of Aceco against the Defendant FMC, and grant to Aceco all of the following relief:

A. Enter judgment that Defendant FMC has infringed and is infringing the '171 patent;

B. Enter judgment that the aforementioned infringement by Defendant FMC has been and is willful;

C. Enter orders preliminarily and permanently enjoining Defendant FMC, and its respective officers, agents, employees, and all others in active concert or participation with Defendant or any of them from further infringing, whether directly or indirectly, the '171 patent;

D. Award Aceco its damages in an amount sufficient to compensate Aceco for Defendant FMC's infringement of the '171 patent, together with pre-judgment and post-judgment interest and costs, pursuant to 35 U.S.C. § 284;

E. Award enhanced damages to Aceco in an amount not less than three times the compensatory damages awarded by this Court for Defendant FMC's willful infringement of the '171 patent, pursuant to 35 U.S.C. § 284;

F. Declare this case to be "exceptional" under 35 U.S.C. § 285, and award Aceco its attorneys' fees, expenses and costs incurred in this action; and

G. Award Aceco such other and further relief as this Court deems just and proper.

Date: October 31<sup>st</sup>, 2006

Respectfully submitted,

/s/ Shawn M. Dellegar

Mark G. Kachigian, OBA #4852

[mkachigian@hjklaw.com](mailto:mkachigian@hjklaw.com)

Shawn M. Dellegar, OBA #20973

[sdellegar@hjklaw.com](mailto:sdellegar@hjklaw.com)

HEAD, JOHNSON & KACHIGIAN, P.C.

228 West 17<sup>th</sup> Place

Tulsa, Oklahoma 74119

Telephone: (918) 587-2000

Facsimile: (918) 584-1718

Counsel for Plaintiff

Aceco Valve, Inc.

**CERTIFICATE OF MAILING**

I certify that a copy of the foregoing First Amended Complaint was served by U.S. Certified Mail, return receipt requested, on October 31, 2006 on the following participants, who are not registered on the ECF system:

FMC Technologies, Inc.  
The Corporation Company  
120 North Robinson, Suite 735  
Oklahoma City, Oklahoma 73102

/s Shawn M. Dellegar  
Shawn M. Dellegar