

JS-44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

AllTech Communications, LLC

(b) County of Residence of First Listed Plaintiff Tulsa County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

rowe & Dunlevy, 20 North Broadway, Ste. 1800,
Oklahoma City, OK 73102, (405) 235-7700, Phillip L. Free, Jr.

DEFENDANTS

TeWorx Communications, LLC; and
Sronce, Tim

County of Residence of First Listed Defendant Davidson County, NC

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (if known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ID) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity).
35 U.S.C. § 271

Brief description of cause:
Patent Infringement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ To be proven at trial

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions)

JUDGE Terence Kern

DOCKET NUMBER 4:08-cv-00210-TCK-TLW

DATE
5-13-09

SIGNATURE OF ATTORNEY OF RECORD

Phillip L. Free, Jr.

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFF _____ JUDGE _____ MAG. JUDGE _____

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

(1) ALLTECH COMMUNICATIONS,)	
LLC,)	
)	
Plaintiff,)	
)	Case No. 09-CV-276-JHP-FHM
v.)	
)	(Related Case No: 4:08-cv-00210-TCK-
(1) TELWORX COMMUNICATIONS,)	TLW)
LLC and)	
(2) TIM SCRONCE,)	
)	
Defendants.)	

COMPLAINT

Plaintiff AllTech Communications, LLC ("AllTech") for its Complaint against the defendants TelWorx Communications, LLC ("TelWorx") and Tim Scronce ("Scronce")(together "the Defendants") states as follows:

Nature of the Action

1. This action seeks to recover damages owed to AllTech by defendants as a result of Defendants' actions in selling and offering for sale products which infringe U.S. Patent No. 7,062,883 ("the '883 patent"), and for inducing infringement of the '883 patent. This action also includes claims for Defendants' misappropriation of AllTech's trade secrets, deceptive trade practices, and unfair competition.

Jurisdiction

2. This Court is vested with jurisdiction under 28 U.S.C. § 1138 and 28 U.S.C. § 1331, as an action arising under the United States patent laws. This Court has

supplemental jurisdiction over the claims in this Complaint which arise under the statutory and common law of the State of Oklahoma pursuant to 28 U.S.C. § 1367(a).

Venue

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b). The acts of infringement, misappropriation, unfair competition, and deceptive trade practices that are the subject of this litigation occurred and are occurring in the Northern District of Oklahoma; Defendants' unlawful activities may be found in the Northern District of Oklahoma; the claims alleged in this action arose in the Northern District of Oklahoma; and victims of Defendants' unlawful activities may be found in the Northern District of Oklahoma.

The Parties

4. AllTech is a limited liability company organized under the laws of the State of Oklahoma and has its principal place of business in Tulsa, Oklahoma. AllTech manufactures and services portable cellular towers used for communication and other uses.

5. Defendant TelWorx is a limited liability company organized under the laws of the State of North Carolina and has its principal place of business at 364 Dixon Street in Lexington, North Carolina. TelWorx intentionally committed acts of misappropriation, patent infringement, unfair competition, and deceptive trade practices aimed at Oklahoma and residents of Oklahoma, with knowledge that the brunt of the injury would be felt by Plaintiff in Oklahoma.

6. Defendant Tim Scronce is a managing member, President, and Chief Executive Officer of TelWorx. Upon information and belief, Scronce resides in North Carolina. Scronce intentionally committed acts of misappropriation, patent infringement, unfair competition, and deceptive trade practices aimed at Oklahoma and residents of Oklahoma, with knowledge that the brunt of the injury would be felt by Plaintiff in Oklahoma.

Background

7. AllTech is the owner of United States Patent No. 7,062,883 ("the '883 patent") titled "Self Guying Communication Tower." The '883 patent issued to Laurence H. Langholz and Robert C. Brothers on June 20, 2006. A copy of the '883 patent is attached as Exhibit 1. Mr. Langholz and Mr. Brothers assigned the '883 patent to AllTech on March 16, 2001. A copy of the assignment is attached as Exhibit 2.

8. In 2007, TelWorx was a valued customer of AllTech for portable communication towers.

9. In or about August 2007, TelWorx and its officers, including Defendant Scronce and Christopher S. Ready, Vice President of Sales for TelWorx, participated in setting up TowerWorx International, Inc. ("TowerWorx") in Pryor, Oklahoma to manufacture competing communication towers. These competing towers infringe the '883 patent. After the formation of TowerWorx, TelWorx ceased purchasing portable communication towers from AllTech and started selling the portable communication

towers manufactured by TowerWorx. TowerWorx has been sued for patent infringement by AllTech in a separate action pending in the Northern District of Oklahoma.

10. In setting up TowerWorx to manufacture the infringing communication towers and in selling the infringing communication towers, TelWorx and Scronce intentionally and knowingly used AllTech's trade secrets and used improper means to acquire AllTech's trade secrets, including but not limited to customer lists, technical drawings, and financial information. Defendants also used AllTech's product pictures on the TowerWorx website to sell competing cellular towers.

11. Defendants acquired AllTech's trade secrets and product pictures from Robert Brothers, a member and former employee of AllTech, and Pam Abel, a former employee of AllTech. Robert Brothers and Pam Abel had signed an Employee Acknowledgement Form by which they agreed to comply with the policies contained in AllTech's Employee Handbook, including non-disclosure provisions relating to the trade secrets. Additionally, Robert Brothers was bound by various fiduciary duties to AllTech not to misappropriate AllTech's trade secrets.

12. At all times, AllTech's trade secrets were subject to reasonable efforts to maintain their secrecy, including but not limited to AllTech's non-disclosure provisions in the employee handbook, AllTech's restriction of access to confidential business information, protection of confidential information on password-protected computers, and protection of information in locked or attended offices. AllTech's trade secret

information derives independent economic value from not being generally known to, or readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

13. In acquiring AllTech's trade secret information, TelWorx's officers and employees, including Scronce, directly communicated with Brothers and Abel during their employment at AllTech in Oklahoma, via email and by phone. These communications involved setting up TowerWorx in Oklahoma, acquiring AllTech's trade secrets in Oklahoma, using AllTech equipment and trade secrets to set up TowerWorx, and using photographs of AllTech communication towers to market the TowerWorx/TelWorx communication towers. TelWorx has also made purchases from Oklahoma companies related to the start-up of TowerWorx. Upon information and belief, Defendant Scronce traveled to Oklahoma to help set up TowerWorx and to further TelWorx' unlawful acts in Oklahoma. The actions of TelWorx' employees were within the course and scope of their employment.

14. TelWorx offers an interactive website on which it advertises and offers for sale infringing communication towers. The website provides for live chat capabilities through which users, including Oklahoma residents, can buy and sell products. TelWorx' website also has a customer sign-in for existing customers.

15. In performing the actions described above, TelWorx was acting at the direction of Scronce, and Scronce participated in and had full knowledge of the unlawful activities of TowerWorx.

16. Defendant Scronce used TelWorx as an instrument to carry out his plans to infringe the '883 patent, misappropriate AllTech's trade secrets, unfairly compete with AllTech, and perform deceptive trade practices.

COUNT 1
MISAPPROPRIATION OF TRADE SECRETS (78 O.S. § 85 *et seq.*)

17. Plaintiff incorporates and realleges the allegations in paragraphs 1 - 15 above.

18. Defendants have acquired AllTech's trade secrets, and knew or had reason to know that the trade secrets were acquired by improper means.

19. Defendants have used AllTech's trade secrets without express or implied consent. Defendants used improper means to acquire knowledge of the trade secret, and defendants knew or had reason to know that their knowledge of the trade secrets was derived from persons who utilized improper means to acquire the trade secrets and who owed a duty to Plaintiff to maintain their secrecy and limit their use.

20. Defendants' actions constitute misappropriation of trade secrets under 78 O.S. § 86.

21. Defendants' misappropriation of AllTech's trade secrets has caused and will continue to cause serious and irreparable injury to AllTech, for which AllTech is without adequate remedy at law. Because of Defendants' misappropriation, AllTech is entitled to an injunction pursuant to 78 O.S. § 87.

22. Because of Defendants' misappropriation, AllTech has been injured and damaged, and is entitled to the recovery of damages pursuant to 78 O.S. § 88.

COUNT 2
PATENT INFRINGEMENT (35 U.S.C. § 271)

23. Plaintiff incorporates and realleges the allegations in paragraphs 1 - 21 above.

24. By virtue of its ownership of the '883 patent, AllTech has the right to sue for infringement of the '883 patent and recover for infringement thereof.

25. In setting up TowerWorx to manufacture infringing communication towers, Defendants induced infringement of the '883 patent. In selling and offering to sell the infringing product, Defendants have directly infringed the '883 patent. Defendants will continue their infringement unless enjoined by this Court pursuant to 35 U.S.C. § 283.

26. The infringement by Defendants was willful and deliberate, and AllTech is entitled to treble damages under 35 U.S.C. § 284.

27. As a direct result of the infringing activities of Defendants, AllTech has suffered injuries in an amount to be determined at trial, and is entitled to damages under 35 U.S.C. § 284.

**COUNT 3
UNFAIR COMPETITION**

28. Plaintiff incorporates and realleges the allegations in paragraphs 1 – 26 above.

29. The acts alleged above constitute unfair competition under the common law of Oklahoma.

30. As a direct result of the unfair competition of Defendants, AllTech has suffered injuries in an amount to be determined at trial.

**COUNT 4
VIOLATION OF THE OKLAHOMA DECEPTIVE TRADE PRACTICES ACT
(78 O.S. § 51 et seq.)**

31. Plaintiff incorporates and realleges the allegations in paragraphs 1 - 29 above.

32. Defendants have knowingly made a false representation as to the source, sponsorship, approval, or certification of AllTech's goods or services by using pictures of AllTech's products on TowerWorx' website, in violation of the Oklahoma Deceptive Trade Practices Act.

33. By using pictures of AllTech's products on TowerWorx' website, Defendants have represented that their goods are of a particular standard, quality, or grade, or that goods are a particular style or model, when they were another.

34. By using pictures of AllTech's products on TowerWorx' website, Defendants have advertised goods which differ from those offered for sale in the advertisements.

35. Defendants' deceptive trade practices have caused and will continue to cause serious and irreparable injury to AllTech, for which AllTech is without adequate remedy at law. Because of Defendants' misappropriation, AllTech is entitled to an injunction pursuant to 78 O.S. § 54.

36. Because of Defendants' deceptive trade practices, AllTech has been injured and damaged, and is entitled to the recovery of damages pursuant to 78 O.S. § 54.

WHEREFORE, AllTech respectfully requests as follows:

A. That Defendants be held to have infringed the '883 patent, induced infringement of the '883 patent, violated Oklahoma's common law of unfair competition, misappropriated AllTech's trade secrets, and violated Oklahoma's Deceptive Trade Practices Act;

B. That Defendants be permanently enjoined from infringing or inducing infringement of the '868 Patent, misappropriating or using AllTech's trade secrets, unfairly competing against AllTech, and using deceptive trade practices;

- C. That Defendants be ordered to fully compensate Plaintiff for all damages caused by Defendants;
- D. That this case be deemed exceptional, and treble damages be awarded;
- E. That Defendants be required to account for all profits, gains, and unjust enrichment derived from their infringement;
- F. That Plaintiff be awarded its attorneys' fees and costs in this action;
- G. That Plaintiff be awarded an assessment of interest on the damages; and
- H. That Plaintiff be awarded such other and further relief as the Court deems just and equitable.

JURY TRIAL DEMANDED

Respectfully submitted,

s/ Phillip L. Free Jr.

Phillip L. Free Jr., OBA #15765

Attorney for Plaintiff

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