

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TDY INDUSTRIES INCORPORATED,  
1000 Six PPG Place, Pittsburgh, PA 15222,

Plaintiff,

v.

INGERSOLL CUTTING TOOL COMPANY,  
845 South Lyford Road, Rockford, IL 61108,

Defendant.

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) Civil Action No.  
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) **JURY TRIAL DEMANDED**  
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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff TDY Industries, Incorporated (“TDY”), by its undersigned counsel, K&L Gates LLP, files this Complaint against the Defendant Ingersoll Cutting Tool Company (“ICT” or “Defendant”).

**NATURE OF THE ACTION**

1. This action arises under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.*, from the Defendant’s direct infringement and indirect infringement of United States Patent No. 7,244,519 B2 (“the ‘519 patent”).

**PARTIES**

2. Plaintiff TDY Industries, Incorporated (“TDY”) is a California corporation with its principal place of business at 1000 Six PPG Place, Pittsburgh, PA 15222.

3. Defendant Ingersoll Cutting Tool Company (“ICT”) is a Delaware corporation with its principal place of business at 845 South Lyford Road, Rockford, IL 61108.

**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332 and 1338(a).

5. This Court has personal jurisdiction over the Defendant because, among other things, the Defendant, either directly or through its respective agents, has minimum contacts with this forum as a result of business regularly conducted within the Commonwealth of Pennsylvania and within the Western District of Pennsylvania (“this District”), which business activities introduce into the stream of commerce products and/or components of products that infringe the ‘519 patent.

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(c) because the Defendant as a corporation is deemed to reside in this District, transacts and conducts business within this District, and is subject to personal jurisdiction in this District.

7. Separately, venue is proper in this District pursuant to 28 U.S.C. § 1400(b) because the Defendant as a corporation is deemed to reside in this District and has committed acts of infringement in this District.

**COUNT I – INFRINGEMENT OF THE ‘519 PATENT**

8. TDY incorporates by reference, as if fully set forth herein, each and every one of the foregoing numbered paragraphs

9. On July 17, 2007, the United States Patent and Trademark Office (“USPTO”) issued the ‘519 patent, entitled “PVD Coated Ruthenium Featured Cutting Tools,” with Gilles Festeau, X. Daniel Fang and David J. Wills named as inventors. A true and correct copy of the ‘519 patent is provided at Exhibit A.

10. TDY is the owner of the ‘519 patent by assignment.

11. ICT is now and/or has been directly, indirectly, contributorily, and/or by inducement infringing the '519 patent, literally and/or under the doctrine of equivalents, as proscribed by 35 U.S.C. § 271, *et seq.*, by, without permission or authority from TDY, selling, offering to sell, making, using, contributing to others' use and sale of, and/or inducing others to use and sell within the United States, including this District, products and/or components of products and/or services that infringe at least one claim of the '519 patent, including but not limited to metal cutting inserts and carbide milling tips that include a Ruthenium-containing binder and a PVD coating, including but not limited to metal cutting inserts and carbide milling tips with the new "IN2035" grade.

12. Upon information and belief, one such milling tip sold and/or manufactured by ICT that include a Ruthenium-containing binder and PVD coating, include the IN2035 grade "Chip-Surfer Series 45X - Spherical Ball Nose Carbide Milling Tip."

13. Upon information and belief, cutting inserts sold and/or manufactured by ICT that include a Ruthenium-containing binder and PVD coating, include the IN2035 grade metal inserts designated: RHKW1605MOTN, RHHT1605MOTN, RHHT1003MOTN, RHKW1003MOTN, RHHT1204MOTN, RHKW1204MOTN, RPHT 1204MOTN, RHHT0803MOTN, RHHT0802MOTN.

14. ICT is not, and has not been at any time, licensed under the '519 patent.

15. A division of TDY manufactures and sells metal cutting inserts covered by the '519 patent. These inserts are marked with the patent number in compliance with 35 U.S.C. § 287.

16. In addition to providing statutory notice to ICT through such markings, on April 20, 2010, TDY contacted ICT by letter, which informed ICT that TDY was aware of its

infringing activities and requested ICT to give its reasons for continuing to market and sell IN2035 inserts. A copy of the letter is attached as Exhibit B.

17. Upon information and belief, ICT has continued to market and sell the inserts listed above after receipt of TDY's letter on April 20, 2010.

18. Upon information and belief, ICT's foregoing acts of infringement have been and continue to be willful and deliberate.

19. TDY has been damaged by the foregoing acts of infringement of its patent by the Defendant and will continue to be damaged by such infringement unless enjoined by this Court.

**RELIEF REQUESTED**

Wherefore, TDY respectfully requests that this Court enter judgment against ICT as follows:

- A. That ICT has infringed the '519 patent;
- B. That ICT's infringement of the '519 patent has been willful;
- C. A preliminary and permanent injunction against further infringement of the '519 patent by ICT;
- D. An award of damages sufficient to compensate TDY for the patent infringement that has occurred, together with pre-judgment interest and costs;
- E. An award of all other damages permitted by 35 U.S.C. § 284, including increased damages up to three times the amount of compensatory damages found;

F. That this in an exceptional case and an award to TDY of its costs and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285; and

G. Such other relief that this Court deems just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), TDY hereby demands a trial by jury on all issues triable of right by a jury

Respectfully submitted,

Dated: June 10, 2010

s/Patrick J. McElhinny

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