

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

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**HICKORY SPRINGS MANUFACTURING  
COMPANY,**

**Plaintiff,**

**v.**

**FLEXCO PRODUCTS, INCORPORATED,**

**Defendant.**

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Case No. 3:04cv638 RM  
**JURY TRIAL DEMANDED)**

**COMPLAINT**

1. Plaintiff, Hickory Springs Manufacturing Company (“Hickory Springs”) owns U.S. Patent No. 6,082,751 (the “’751 Patent”), issued by the United States Patent Office on July 4, 2000. The ‘751 patent covers an extendable and retractable step structure for recreational vehicles (“RVs”). By and through its undersigned attorneys, Hickory Springs charges that the defendant Flexco Products, Incorporated (“Flexco Products”) is now and will be infringing the ‘751 Patent. Hickory Springs asks this Court to enjoin Flexco Products from any further infringement and to award damages to Hickory Springs.

**JURISDICTION AND VENUE**

2. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1, *et. seq.*

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), as this action arises under an Act of Congress relating to patents.

4. Venue is properly established in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400 as, upon information and belief, Flexco Products is deemed to reside in this Judicial District, has engaged in acts of infringement within the jurisdiction of this Court and has engaged in substantial business in this judicial district.

### **Parties**

5. Hickory Springs is a North Carolina corporation having a principal place of business in Hickory, North Carolina. Hickory Springs is in the business of, *inter alia*, designing and manufacturing components for RVs, including steps and assist handles.

6. Upon information and belief, Flexco Products is a corporation organized and existing under the laws of Indiana with a principal place of business in Elkhart, Indiana.

7. Upon information and belief, Flexco Products makes, sells or offers to sell its products in the State of Indiana, including in this district, has substantial contacts with this judicial district and has made, used, sold or offered for sale infringing products in the State of Indiana, as well as within this judicial district.

### **COUNT I** **Patent Infringement**

8. On July 4, 2000, U.S. Patent No. 6,082,751, entitled "Step Structure For Recreational Vehicles and the Like," was duly and legally issued to inventors Fred E. Hanes and Allen M. Williams (the "inventors"). A copy of the '751 patent is attached hereto as Exhibit A.

9. The inventors jointly assigned their entire right, title and interest in and to the '751 Patent to Hickory Springs and Hickory Springs is the owner of the entire right, title and interest in the '751 Patent.

10. Flexco Products has developed at least one extendable and retractable RV step structure known as the Flexco 24" Double Step. This product is covered by one or more claims of the '751 Patent

11. Flexco Products has been and is now directly infringing the '751 Patent by making, using, selling and/or offering for sale in the United States, RV step structures covered by one or more of the claims of the '751 Patent, in violation of 35 U.S.C. § 271(a), including but not limited to acts of making, selling and offering for sale such products in this State and in this judicial district.

12. Flexco Products' acts of direct infringement of the '751 Patent have been and will continue to be performed with full knowledge of the '751 Patent and without leave, license or permission of Hickory Springs. Such activities constitute willful infringement of the '751 patent.

13. As a result of such direct infringement, Hickory Springs has suffered and will continue to suffer irreparable injury and damage to its business and loss of sales, customers and profits which it would have realized but for Flexco Products' acts.

14. Upon information and belief, Flexco Products will continue to infringe upon the '751 Patent, to the irreparable harm of Hickory Springs, unless enjoined by this Court.

## COUNT II

### **INDUCING PATENT INFRINGEMENT**

15. Hickory Springs realleges and incorporates by reference paragraphs 1 through 14 of this complaint into this Count II, as if fully set forth herein.

16. Flexco Products has infringed and is continuing to infringe the ‘751 Patent by actively inducing others to make, use and/or sell an apparatus that infringes the ‘751 Patent with knowledge that such use constitutes direct infringement of the ‘751 Patent. Such acts constitute infringement by inducement in violation of 35 U.S.C. § 271(b), and Flexco Products will continue to induce infringement unless enjoined by this Court.

17. Flexco Products’ acts of inducing infringement of the ‘751 Patent have been and will continue to be performed with full knowledge of the ‘751 Patent and without leave, license or permission of Hickory Springs. Such activities constitute willful infringement of the ‘751 Patent.

18. As a result of such induced infringement, Hickory Springs has suffered and will continue to suffer irreparable damage to its business and a loss of sales and profits which it would have realized but for Flexco Products’ acts.

**WHEREFORE**, Hickory Springs requests that this Court grant Judgment in its favor, and award it the following relief:

1. Declare that the defendant’s acts and conduct infringe the ‘751 Patent and the exclusive rights in said patent held by Hickory Springs;
2. Declare that defendant has and is inducing infringement of the ‘751 Patent, in violation of 35 U.S.C. § 271(b).

3. Declare that such infringement was willful;
4. Enter a preliminary and permanent injunction which:
  - a. Enjoins the defendant, its officers, agents, employees, privies, subsidiaries, successors, and assigns and all holding by, through or under them, and all those acting for them or in their behalf, from infringing upon the '751 Patent; and
  - b. Enjoins the defendant, its directors, officers, agents, employees, representatives, and all other persons in active participation with them, to recall from all distributors, wholesalers, retailers and all others known to defendant, all products which infringe upon the '751 Patent, and requires defendant to file with this Court and to serve upon Hickory Springs, within 30 days after service of the Court's Order as herein prayed, a report in writing under oath setting forth in detail the manner and form in which defendant has complied with the Court's Order;
5. Require the defendant to account to Hickory Springs for all profits and other income realized by defendant and any subsidiary or affiliate of defendant;
6. Award Hickory Springs its actual damages suffered as a result of the defendant's infringement of the '751 Patent and the rights held by Hickory Springs in said patent, and, pursuant to a finding of willful infringement, order that such damages be trebled;
7. Award Hickory Springs any profits realized by defendant as a result of its infringement of the '751 Patent and the rights held by Hickory Springs in said patent;
8. Declare this case to be exceptional under 35 U.S.C. § 285 and award Hickory Springs its attorney fees; and

9. Grant such other and further relief as the equity of the case may require and as this Court may deem just and proper, together with costs and disbursements of this action, including attorneys' fees.

A jury trial is hereby requested.

DATE: October 7, 2004.

Respectfully submitted,

BAKER & DANIELS

s/Gerard T. Gallagher

Gerard T. Gallagher (#16718-71)  
205 West Jefferson Boulevard, Suite 250  
South Bend, IN 46601  
Telephone: (574) 234-4149  
Facsimile: (574) 239-1900

David P. Irmischer (#15026-02)  
111 East Wayne Street, Suite 800  
Fort Wayne, IN 46802  
Telephone: (260) 424-8000  
Facsimile: (260) 460-1700

Attorneys for Plaintiff

OF COUNSEL:

Clifford R. Jarrett  
N.C. State Bar No. 18267  
KENNEDY COVINGTON LOBDELL & HICKMAN, L.L.P.  
214 North Tryon Street, 47<sup>th</sup> Floor  
Charlotte, North Carolina 28202  
(704) 331-7400 [telephone]  
(704) 353-3231 [facsimile]