

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
~~CHARLOTTE~~ DIVISION  
STATESVILLE

FILED  
CHANCELLER  
JUL 2 2002  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE

WORLD FIBERS, INC.	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
NATHANIEL H. KOLMES, and	)	
SUPREME ELASTIC CORPORATION	)	
	)	
Defendants	)	
	)	

Case No. 5:02CV71-H

**COMPLAINT**

**(Jury Trial Demanded)**

COMES NOW the Plaintiff, World Fibers, Inc. (hereinafter referred to as "World Fibers" or "Plaintiff") and for its Complaint against Defendants Nathaniel H. Kolmes and Supreme Elastic Corporation (hereinafter collectively referred to as "Defendants"), alleges and says:

JURISDICTION AND VENUE

1. This civil action arises under the Patent Laws of the United States, United States Code, Title 35, Section 1 et seq., and in particular, 35 U.S.C. §§ 271 and 291.
2. Jurisdiction is proper in this Court under the provisions of 28 U.S.C. § 1338(a) in that the claims of the Complaint arise under the Patent Laws of the United States.
3. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and 1400(b). Upon information and belief, the Defendants conduct business in this district and division.
4. This Court has jurisdiction pursuant to 28 U.S.C. § 1331.

## PARTIES

5. Plaintiff World Fibers is a corporation organized and existing under the laws of the State of North Carolina, and has its principal place of business in Concord, North Carolina.

6. Upon information and belief, Defendant Nathaniel H. Kolmes is an individual and citizen of North Carolina, residing at 1740 5th St. Dr. NW., Hickory, NC.

7. Upon information and belief, Defendant Supreme Elastic Corporation is a corporation organized and existing under the laws of the State of North Carolina, and has its principal place of business in Hickory, North Carolina.

## CLAIM FOR RELIEF AGAINST DEFENDANT

### Count 1: Patent Infringement

8. Plaintiff World Fibers is the owner of all right, title and interest in and to U.S. Patent No. 6,413,636 for a "Protective Yarn," attached as exhibit 1 to this complaint, hereinafter referred to as the "World Fibers Patent."

9. Defendants are infringing the World Fibers Patent by making, using, selling and offering for sale in this District and elsewhere, products that come within the scope of the World Fibers Patent in violation of the Patent Laws of the United States, including, *inter alia*, 35 U.S.C. § 271, or which contributorily infringe and induce infringement of the World Fibers Patent.

10. Upon information and belief, Defendant Nathaniel H. Kolmes is the President of Defendant Supreme Elastic Corporation, has ultimate authority and control over Supreme Elastic with respect to its manufacture and sale of Supreme Elastic products, and has directed Defendant Supreme Elastic to engage in its infringing conduct.

11. Defendant Kolmes has induced Supreme Elastic's infringement of the World Fibers Patent by directing and instructing Supreme Elastic to manufacture, use, sell and offer for

sale within the United States products that come within the scope of the World Fibers Patent in violation of the 35 U.S.C. § 271(b).

12. Defendants' acts of infringement are irreparably harming and causing damage to Plaintiff World Fibers and will continue to do so unless and until restrained by this Court.

### Count 2: Interfering Patents

13. Upon information and belief, Defendant Nathaniel Kolmes is the sole inventor named on U.S. Patent No. 5,845,476, hereinafter referred to as "the Kolmes Patent."

14. Upon information and belief, Supreme Elastic Corporation is owner(s) to all right, title and interest to the Kolmes Patent.

15. The World Fibers Patent and the Kolmes Patent claim the same subject matter, and therefore are interfering patents under 35 U.S.C. § 291.

16. The World Fibers Patent has a priority filing date of June 27, 1996.

17. The Kolmes Patent has a priority filing date of June 4, 1997.

18. The World Fibers Patent has priority over the Kolmes Patent for one or more of the following reasons:

(a) The Kolmes Patent is invalid because the invention of the Kolmes Patent was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by Kolmes.

(b) The Kolmes Patent is invalid because the invention claimed in the Kolmes patent was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

- (c) The Kolmes Patent is invalid because the invention of the Kolmes Patent was described in a patent granted on an application for patent by another filed in the United States before the invention of Kolmes.
- (d) The Kolmes Patent is invalid because Kolmes did not invent the subject matter sought to be patented.
- (e) The Kolmes Patent is invalid because the invention of the Kolmes Patent was made before Kolmes by another who had not abandoned, suppressed, or concealed it.
- (f) The Kolmes Patent is invalid and unenforceable due to inequitable conduct on the part of Kolmes and/or others involved in the prosecution of the Kolmes Patent for failure to disclose known material prior art to the Patent and Trademark Office during prosecution of the Kolmes Patent. Such inequitable conduct includes failure to disclose the sale of World Fibers' yarn styles WF 331 and WF 332, which Kolmes and/or others involved in the prosecution of the Kolmes Patent knew had been sold more than one year prior to the date of application of the Kolmes Patent.

WHEREFORE, Plaintiff prays:

- A. That this Court preliminarily and permanently enjoin Defendants from infringing the World Fibers Patent in accordance with 35 U.S.C. 283 and engaging in any advertising or sales of its infringing products;
- B. That Plaintiff be awarded judgment against Defendant for damages resulting from its infringement of the World Fibers Patent, and that such damages be trebled in accordance with provisions of 35 U.S.C. 284, and for reasonable attorneys' fees in accordance with 35 U.S.C. 285;

C. That this Court order the impounding and destruction of all Defendant's products that infringe the World Fibers Patent;

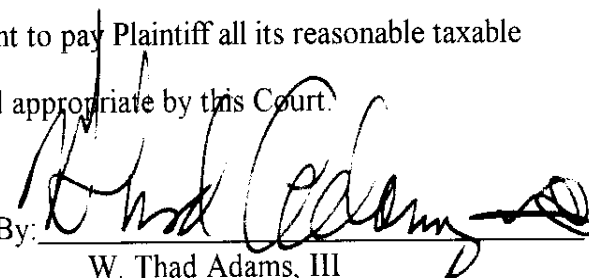
D. That this Court declare the World Fibers Patent to have priority over the Kolmes Patent.

E. That this Court declare the Kolmes Patent to be invalid and unenforceable.

F. That this Court award Plaintiff interest, cost and such further relief that this Court deems just and equitable; and

G. That this Court order Defendant to pay Plaintiff all its reasonable taxable costs and attorneys' fees in a sum and manner deemed appropriate by this Court.

Date: July 2, 2002

By:   
W. Thad Adams, III  
Attorney for the Plaintiff

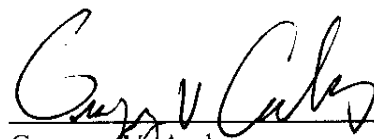
OF COUNSEL:

W. Thad Adams, III  
Stephen S. Ashley  
ADAMS, SCHWARTZ & EVANS, P.A.  
2180 Two Wachovia Center  
301 S. Tryon Street  
Charlotte, North Carolina 28282  
(704) 375-9249

VERIFICATION OF COMPLAINT

Gregory V. Andrews, being first duly sworn, deposes and says that he is the Vice President of Plaintiff, World Fibers, Inc., that he has read the attached Complaint, and that the statements made therein are true except as to those matters stated upon information and belief, and as to those matters, he believes them to be true.

This, the 2nd day of July, 2002.

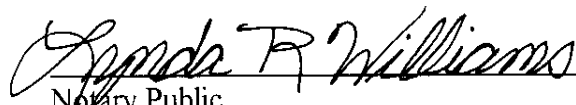
  
\_\_\_\_\_  
Gregory V. Andrews  
Vice President, World Fibers, Inc.

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

I, Lynda R. Williams, hereby certify and acknowledge that Gregory V. Andrews, Vice President of World Fibers, Inc., after being duly sworn, appeared before me this day and executed the foregoing Verification of Complaint.

This the 2nd day of July, 2002.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: August 2, 2002

SEAL

**NOTE:**

**THIS IS A PARTIALLY  
SCANNED DOCUMENT.**

**PLEASE SEE THE CASE  
FILE FOR  
ATTACHMENTS,  
EXHIBITS, AFFIDAVITS  
OR OTHER MATERIAL  
WHICH HAS NOT BEEN  
SCANNED.**