

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SAFE-STRAP COMPANY, INC., a New Hampshire corporation,	-	X	
	:		
	:		
Plaintiff,	:		Civil Action No. 2:07cv392
	:		
v.	:		JURY TRIAL DEMANDED
	:		
NATIONAL MOLDING CORP., a New York corporation; THE FRENCH COMPANY, an Ohio corporation; FRENCH COMPONENTS CORP., t/a EZ SECURE PRODUCTS, an Ohio corporation; NATIONAL WEBBING PRODUCTS COMPANY, d/b/a BLUE STAR WEBBING, a New York corporation; and THE JOHN C. TUCKER COMPANY, INC., a Texas corporation,	:		
	:		
Defendants.	:		
	-	X	

FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

This is an action for patent infringement in which Safe-Strap Company, Inc. makes the following allegations against National Molding Corp., The French Company, French Components Corp., t/a EZ Secure Products, National Webbing Products Company, d/b/a Blue Star Webbing, and The John C. Tucker Company, Inc. (collectively, “Defendants”).

PARTIES

1. Plaintiff Safe-Strap Company, Inc. (“Safe-Strap”) is a New Hampshire corporation having its principal place of business at 6 Kingsbridge Road, Fairfield, New Jersey 07004.

2. Upon information and belief, defendant National Molding Corp. (“National Molding”) is a New York corporation having its principal place of business at 5 Dubon Court, Farmingdale, New York 11735.

3. Upon information and belief, defendant The French Company is an Ohio corporation having its principal place of business at 8289 Darrow Road, Twinsburg, Ohio 44087.

4. Upon information and belief, defendant French Components Corp., t/a EZ Secure Products (“EZ Secure”) is an Ohio corporation having its principal place of business at 8289 Darrow Road, Twinsburg, Ohio 44087.

5. Upon information and belief, defendant National Webbing Products Company, d/b/a Blue Star Webbing (“National Webbing”) is a New York corporation having its principal place of business at 77 Second Avenue, New Hyde Park, New York 11040.

6. Upon information and belief, defendant The John C. Tucker Company, Inc. (“John C. Tucker”) is a Texas corporation having its principal place of business at 2921 Suffolk Drive, Suite 500, Fort Worth, Texas 76133.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). Upon information and belief, each defendant regularly transacts business in this district and has committed and/or induced acts of patent infringement in this district.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 6,604,265

9. Safe-Strap is the owner by assignment of U.S. Patent No. 6,604,265 (“the ‘265 Patent”) entitled “Child Resistant Buckle.” The ‘265 Patent issued on August 12, 2003. A true and correct copy of the ‘265 Patent is attached as Exhibit A.

10. Paul Giampavolo is listed as the inventor on the ‘265 Patent.

11. Upon information and belief, defendant National Molding has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '265 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling child resistant buckles covered by one or more claims of the '265 Patent to the injury of Safe-Strap. Defendant National Molding is thus liable for infringement of the '265 Patent pursuant to 35 U.S.C. § 271.

12. Upon information and belief, defendant The French Company has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '265 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling child resistant buckles covered by one or more claims of the '265 Patent to the injury of Safe-Strap. Defendant The French Company is thus liable for infringement of the '265 Patent pursuant to 35 U.S.C. § 271.

13. Upon information and belief, defendant EZ Secure has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '265 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling child resistant buckles covered by one or more claims of the '265 Patent to the injury of Safe-Strap. Defendant EZ Secure is thus liable for infringement of the '265 Patent pursuant to 35 U.S.C. § 271.

14. Upon information and belief, defendant National Webbing has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '265 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling child

resistant buckles covered by one or more claims of the '265 Patent to the injury of Safe-Strap. Defendant National Webbing is thus liable for infringement of the '265 Patent pursuant to 35 U.S.C. § 271.

15. Upon information and belief, defendant John C. Tucker has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '265 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling child resistant buckles covered by one or more claims of the '265 Patent to the injury of Safe-Strap. Defendant John C. Tucker is thus liable for infringement of the '265 Patent pursuant to 35 U.S.C. § 271.

16. Upon information and belief, Defendants have actively induced and are actively inducing infringement of the '265 Patent and are liable for contributory infringement of the '265 Patent.

17. Upon information and belief, to the extent any marking was required by 35 U.S.C. § 287, Safe-Strap complied with such requirements, and Defendants had actual notice of the '265 Patent.

18. Upon information and belief, the Defendants have willfully infringed and continue to willfully infringe the '265 Patent, as Defendants have conducted and are conducting infringing activities despite actual or constructive notice of an objectively high likelihood that their actions constitute infringement of the '265 Patent.

19. As a result of the Defendants' infringement of the '265 Patent, Safe-Strap has suffered monetary damages in an amount not yet determined, but in no event less than a reasonable royalty, and will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

20. Additionally, as a result of the willful nature of Defendants' conduct, Safe-Strap is entitled to an award of enhanced damages and to an order finding that this is an exceptional case, which further entitles Safe-Strap to recover its reasonable attorneys' fees.

21. Unless a permanent injunction is issued enjoining the Defendants and their agents, servants, employees, attorneys, representatives, affiliates, and all others acting on their behalf from infringing the '265 Patent, Safe-Strap will be greatly and irreparably harmed.

COUNT II

INFRINGEMENT OF U.S. PATENT NO. 6,618,915

22. Safe-Strap is the owner by assignment of U.S. Patent No. 6,618,915 ("the '915 Patent") entitled "Seatbelt with Child Resistant Buckle." The '915 Patent issued on September 16, 2003. A true and correct copy of the '915 Patent is attached as Exhibit B.

23. Paul Giampavolo is listed as the inventor on the '915 Patent.

24. Upon information and belief, defendant National Molding has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '915 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling seatbelts with child resistant buckles covered by one or more claims of the '915 Patent to the injury of Safe-Strap. Defendant National Molding is thus liable for infringement of the '915 Patent pursuant to 35 U.S.C. § 271.

25. Upon information and belief, defendant The French Company has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '915 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling seatbelts with child resistant buckles covered by one or more claims of the '915 Patent to

the injury of Safe-Strap. Defendant The French Company is thus liable for infringement of the '915 Patent pursuant to 35 U.S.C. § 271.

26. Upon information and belief, defendant EZ Secure has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '915 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling seatbelts with child resistant buckles covered by one or more claims of the '915 Patent to the injury of Safe-Strap. Defendant EZ Secure is thus liable for infringement of the '915 Patent pursuant to 35 U.S.C. § 271.

27. Upon information and belief, defendant National Webbing has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '915 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling seatbelts with child resistant buckles covered by one or more claims of the '915 Patent to the injury of Safe-Strap. Defendant National Webbing is thus liable for infringement of the '915 Patent pursuant to 35 U.S.C. § 271.

28. Upon information and belief, defendant John C. Tucker has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '915 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling seatbelts with child resistant buckles covered by one or more claims of the '915 Patent to the injury of Safe-Strap. Defendant John C. Tucker is thus liable for infringement of the '915 Patent pursuant to 35 U.S.C. § 271.

29. Upon information and belief, Defendants have actively induced and are actively inducing infringement of the '915 Patent and are liable for contributory infringement of the '915 Patent.

30. Upon information and belief, to the extent any marking was required by 35 U.S.C. § 287, Safe-Strap complied with such requirements, and Defendants had actual notice of the '915 Patent.

31. Upon information and belief, the Defendants have willfully infringed and continue to willfully infringe the '915 Patent, as Defendants have conducted and are conducting infringing activities despite actual or constructive notice of an objectively high likelihood that their actions constitute infringement of the '915 Patent.

32. As a result of the Defendants' infringement of the '915 Patent, Safe-Strap has suffered monetary damages in an amount not yet determined, but in no event less than a reasonable royalty, and will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

33. Additionally, as a result of the willful nature of Defendants' conduct, Safe-Strap is entitled to an award of enhanced damages and to an order finding that this is an exceptional case, which further entitles Safe-Strap to recover its reasonable attorneys' fees.

34. Unless a permanent injunction is issued enjoining the Defendants and their agents, servants, employees, attorneys, representatives, affiliates, and all others acting on their behalf from infringing the '915 Patent, Safe-Strap will be greatly and irreparably harmed.

COUNT III

INFRINGEMENT OF U.S. PATENT NO. 6,101,687

35. Safe-Strap is the owner by assignment of U.S. Patent No. 6,101,687 (“the ‘687 Patent”) entitled “Child Seatbelt Assembly.” The ‘687 Patent issued on August 15, 2000. A true and correct copy of the ‘687 Patent is attached as Exhibit C.

36. Paul F. Giampavolo and John S. Pontaoe are listed as the inventors on the ‘687 Patent.

37. Upon information and belief, defendant National Webbing has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the ‘687 Patent in the State of Texas, in this judicial district, and elsewhere in the United States by, among other things, making, using, offering to sell or selling child seatbelt assemblies covered by one or more claims of the ‘687 Patent to the injury of Safe-Strap. National Webbing is thus liable for infringement of the ‘687 Patent pursuant to 35 U.S.C. § 271.

38. Upon information and belief, defendant National Webbing has actively induced and is actively inducing infringement of the ‘687 Patent and is liable for contributory infringement of the ‘687 Patent.

39. Upon information and belief, to the extent any marking was required by 35 U.S.C. § 287, Safe-Strap complied with such requirements, and defendant National Webbing had actual notice of the ‘687 Patent.

40. Upon information and belief, the defendant National Webbing has willfully infringed and continues to willfully infringe the ‘687 Patent, as National Webbing has conducted and is conducting infringing activities despite actual or constructive notice of an objectively high likelihood that its actions constitute infringement of the ‘687 Patent.

41. As a result of the defendant National Webbing's infringement of the '687 Patent, Safe-Strap has suffered monetary damages in an amount not yet determined, but in no event less than a reasonable royalty, and will continue to suffer damages in the future unless National Webbing's infringing activities are enjoined by this Court.

42. Additionally, as a result of the willful nature of defendant National Webbing's conduct, Safe-Strap is entitled to an award of enhanced damages and to an order finding that this is an exceptional case, which further entitles Safe-Strap to recover its reasonable attorneys' fees.

43. Unless a permanent injunction is issued enjoining defendant National Webbing and its agents, servants, employees, attorneys, representatives, affiliates, and all others acting on its behalf from infringing the '687 Patent, Safe-Strap will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Safe-Strap respectfully requests that this Court enter:

1. A judgment in favor of Safe-Strap that Defendants National Molding, The French Company, EZ Secure, National Webbing, and John C. Tucker have infringed, directly and indirectly, by way of inducing and/or contributing to the infringement of the '265 Patent, and that such infringement was willful;

2. A permanent injunction enjoining Defendants National Molding, The French Company, EZ Secure, National Webbing, and John C. Tucker and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with any of them from infringing, inducing the infringement of, or contributing to the infringement of the '265 Patent;

3. A judgment and order requiring Defendants National Molding, The French Company, EZ Secure, National Webbing, and John C. Tucker to pay Safe-Strap its damages,

costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '265 Patent as provided under 35 U.S.C. § 284;

4. A judgment in favor of Safe-Strap that Defendants National Molding, The French Company, EZ Secure, National Webbing, and John C. Tucker have infringed, directly and indirectly, by way of inducing and/or contributing to the infringement of the '915 Patent, and that such infringement was willful;

5. A permanent injunction enjoining Defendants National Molding, The French Company, EZ Secure, National Webbing, and John C. Tucker and their officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with any of them from infringing, inducing the infringement of, or contributing to the infringement of the '915 Patent;

6. A judgment and order requiring Defendants National Molding, The French Company, EZ Secure, National Webbing, and John C. Tucker to pay Safe-Strap its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '915 Patent as provided under 35 U.S.C. § 284;

7. A judgment in favor of Safe-Strap that defendant National Webbing has infringed, directly and indirectly, by way of inducing and/or contributing to the infringement of the '687 Patent, and that such infringement was willful;

8. A permanent injunction enjoining defendant National Webbing and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with National Webbing from infringing, inducing the infringement of, or contributing to the infringement of the '687 Patent;

9. A judgment and order requiring defendant National Webbing to pay Safe-Strap its damages, costs, expenses, and prejudgment and post-judgment interest for National Webbing's infringement of the '687 Patent as provided under 35 U.S.C. § 284;

10. An award to Safe-Strap for enhanced damages resulting from the knowing, deliberate, willful and reckless nature of Defendants' prohibited conduct with notice being made at least as early as Defendants' first possession of marked products covered by the patents in suit, and with Defendants having infringed the patents in suit despite actual or constructive notice of an objectively high likelihood that their actions constituted infringement of valid patents, as provided under 35 U.S.C. § 284;

11. A judgment and order requiring Defendants to account for all sales, revenues, profits and benefits Defendants have gained through their infringement of the patents in suit through the date of final judgment;

12. A judgment and order disgorging Defendants of all profits unjustly earned because of their infringement in an amount to be determined by the trier of fact and to be increased as provided by applicable law due to Defendants' knowing, deliberate, willful and reckless violation of the law;

13. An award to Safe-Strap of restitution of the benefits Defendants have gained through their unfair, deceptive, or illegal acts;

14. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding Safe-Strap its reasonable attorneys' fees; and

15. Any and all other relief to which Safe-Strap may show itself to be entitled.

DEMAND FOR TRIAL BY JURY

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Respectfully submitted,

Dated: September 21, 2007

By:



Scott E. Stevens
Stevens Law Firm
111 W. Tyler Street
Longview, Texas 75601
Telephone: (903) 753-6760
Facsimile: (903) 753-6761
scott@seslawfirm.com

Alfred R. Fabricant
Lawrence C. Drucker
Bryan N. DeMatteo
Peter Lambrianakos
DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
New York, New York 10036
Telephone: (212) 277-6500
Facsimile: (212) 277-6501
fabricanta@dicksteinshapiro.com

**ATTORNEYS FOR PLAINTIFF
SAFE-STRAP COMPANY, INC.**