

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

TRENT WEST,

Plaintiff,

v.

**J.C. PENNEY CORPORATION, INC.;
SAMUELS JEWELERS, INC.;
ROGERS LTD., INC.; and
WHITEHALL JEWELERS, INC.**

Defendants.

Civil Action No. 6:08cv212

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Trent West alleges as follows:

THE PARTIES

1. Plaintiff Trent West (“West” or “Plaintiff”) is an individual residing in California.
2. Defendant J.C. Penney Corporation, Inc. (“J.C. Penney”) is a Delaware corporation having an office and principal place of business at 6501 Legacy Drive, Plano, Texas 75024-3698, and is doing business in this District.
3. Defendant Samuels Jewelers, Inc. (“Samuels”) is a Delaware corporation having an office and principal place of business at 2914 Montopolis Drive, Suite 200, Austin, Texas 78741, and is doing business in this District.
4. Defendant Rogers Ltd., Inc. (“Rogers”) is an Ohio corporation having an office and principal place of business at 1050 Central Avenue, Middletown, Ohio 45044, and is doing business in this District.

5. Defendant Whitehall Jewelers, Inc. (“Whitehall”) is a Delaware corporation having an office and principal place of business at 125 South Wacker Drive, Chicago, Illinois 60606, and is doing business in this District.

JURISDICTION AND VENUE

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

7. Venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(c) because federal question jurisdiction is proper and Defendants are corporations and under 1400(b) because Defendants have committed acts of infringement in the Eastern District of Texas and personal jurisdiction is proper in this District.

FACTS

8. Plaintiff, Trent West, learned the craft of jewelry design and jewelry manufacture by apprenticing for his grandfather who was a successful and accomplished jewelry designer in Southern California. Mr. West opened his own jewelry studio in 1970. After years of success in the design and manufacturer of gold and platinum jewelry rings, in the late 1990’s Mr. West started investigating how to utilize the unique esthetic and durability properties of tungsten carbide in jewelry rings. He applied for his first tungsten carbide jewelry ring patent in 1998, and has been awarded seven patents for his innovations in the use of tungsten carbide for jewelry rings.

9. Mr. West’s first sale of a tungsten carbide ring was in 1999. By 2002, Mr. West was being recognized by the jewelry industry for having pioneered the development for a previously unrecognized market for tungsten carbide jewelry rings. Despite industry-wide

recognition that Trent West invented the tungsten carbide jewelry ring market, and despite U.S. Patents protecting Mr. West's inventor's rights, the Defendants named herein have chosen to infringe certain of his tungsten carbide jewelry ring patents.

10. J.C. Penney is a national retailer operating a network of over 1,000 stores throughout the United States, including at least one in this District. J.C. Penney also maintains and operates a web-site at <http://www.jcpenny.com> where it offers its products for sale to customers "on-line" via the internet.

11. Samuels is a jewelry retailer operating a network of over 100 stores throughout the United States, and at least one store in this District. Samuels also maintains and operates a web-site at <http://www.samuelsjewelers.com> where it offers its products for sale to customers "on-line" via the internet.

12. Rogers is a jewelry retailer operating a network of over 40 stores in 10 states, including at least one store in this District. Rogers also maintains and operates a web-site at <http://rogers-jewelers.com> where it offers its products for sale to customers "on-line" via the internet.

13. Whitehall is a specialty jewelry retailer operating a network of over 300 stores throughout the United States, including at least one store in this District. Whitehall also maintains and operates a web-site at <http://www.whitehalljewelers.com> where it offers its products for sale to customers "on-line" via the internet.

FIRST CAUSE OF ACTION

(Infringement of U.S. Patent No. 6,928,734)

14. Plaintiff realleges paragraphs 1 - 13 of this Complaint.

15. Plaintiff is the owner of U.S. Patent No. 6,928,734 (“the ‘734 patent”), entitled “Jewelry Ring and Method of Manufacturing Same,” with full rights in and to the claims and causes of action involved in this suit. A true and correct copy of the ‘734 patent is attached hereto as Exhibit A.

16. Defendants J.C. Penney, Samuels, Rogers and Whitehall (collectively “Defendants”) have been infringing the ‘734 patent, in this District and elsewhere in the United States, by making, using, selling, offering for sale and/or importing tungsten carbide rings covered by the ‘734 patent.

17. Plaintiff alleges on information and belief that Defendants’ infringement of the ‘734 patent has been willful and deliberate, without license, and with full knowledge of plaintiff’s patent rights.

18. Unless restrained or enjoined by this Court, Defendants will continue their acts of infringement, and the resulting damages to plaintiff will be substantial, continuing, and irreparable.

SECOND CAUSE OF ACTION

(Infringement of U.S. Patent No. 6,990,736)

19. Plaintiff realleges paragraphs 1 - 13 of this Complaint.

20. Plaintiff is the owner of U.S. Patent No. 6,990,736 (“the ‘736 patent”), entitled “Methods for Preparing Jewelry Articles Comprising Sintered Tungsten Carbide,” with full

rights in and to the claims and causes of action involved in this suit. A true and correct copy of the '736 patent is attached hereto as Exhibit B.

21. Defendants have been infringing the '736 patent, in this District and elsewhere in the United States, by making, using, selling, offering for sale and/or importing tungsten carbide rings covered by the '736 patent.

22. Plaintiff alleges on information and belief that Defendants' infringement of the '736 patent has been willful and deliberate, without license, and with full knowledge of plaintiff's patent rights.

23. Unless restrained or enjoined by this Court, Defendants will continue their acts of infringement, and the resulting damages to plaintiff will be substantial, continuing, and irreparable.

THIRD CAUSE OF ACTION

(Infringement of U.S. Patent No. 7,032,314)

24. Plaintiff realleges paragraphs 1 - 13 of this Complaint.

25. Plaintiff is the owner of U.S. Patent No. 7,032,314 ("the '314 patent"), entitled "Methods of Making Tungsten Carbide-Based Annular Jewelry Rings," with full rights in and to the claims and causes of action involved in this suit. A true and correct copy of the '314 patent is attached hereto as Exhibit C.

26. Defendants have been infringing the '314 patent, in this District and elsewhere in the United States, by making, using, selling, offering for sale and/or importing tungsten carbide rings covered by the '314 patent.

27. Plaintiff alleges on information and belief that Defendants' infringement of the '314 patent has been willful and deliberate, without license, and with full knowledge of plaintiff's patent rights.

28. Unless restrained or enjoined by this Court, Defendants will continue their acts of infringement, and the resulting damages to plaintiff will be substantial, continuing, and irreparable.

FOURTH CAUSE OF ACTION

(Infringement of U.S. Patent No. 7,076,972)

29. Plaintiff realleges paragraphs 1 - 13 of this Complaint.

30. Plaintiff is the owner of U.S. Patent No. 7,076,972 ("the '972 patent"), entitled "Jewelry Ring and Method of Manufacturing Same," with full rights in and to the claims and causes of action involved in this suit. A true and correct copy of the '972 patent is attached hereto as Exhibit D.

31. Defendants have been infringing the '972 patent, in this District and elsewhere in the United States, by making, using, selling, offering for sale and/or importing tungsten carbide rings covered by the '972 patent.

32. Plaintiff alleges on information and belief that Defendants' infringement of the '972 patent has been willful and deliberate, without license, and with full knowledge of plaintiff's patent rights.

33. Unless restrained or enjoined by this Court, Defendants will continue their acts of infringement, and the resulting damages to plaintiff will be substantial, continuing, and irreparable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Trent West prays for judgment as follows:

1. Each of the Defendants, their officers, directors, employees, agents, licensees, servants, successors, assigns, and any persons acting in privities or in concert with each of the Defendants be preliminarily and permanently restrained and enjoined from further infringement of U.S. Patent No. 7,076,972, U.S. Patent No. 6,928,734, U.S. Patent No. 6,990,736, and U.S. Patent No. 7,032,314.
2. Damages be awarded to plaintiff in an amount adequate to compensate plaintiff for Defendants' infringement;
3. Damages be increased by three times the amount found or assessed, due to Defendants' willful infringement;
4. Plaintiff be awarded his costs, expenses, and disbursements in this action, including reasonable attorney's fees;
5. Plaintiff be awarded interest on the amount of damages found, including pre-judgment and post-judgment interest; and
6. Plaintiff be awarded such other and further relief as the Court may find equitable, just, and proper.

DEMAND FOR JURY TRIAL

Plaintiff Trent West demands trial by jury of all issues that may be so tried.

DATED: May 29, 2008

Respectfully submitted,

/s/ Diane V. DeVasto

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